



ON THE BALLOT

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INTRODUCTION

On April 9, voters in New Orleans will decide the fate of two tax propositions: one to pay for street and public property improvements and another to increase funding for the police and fire departments.

The city administration says the ballot propositions target two major unmet needs on which citizens have consistently demanded action: streets and public safety.

The propositions come at a time of significant economic and revenue growth for the city. For instance, the city's projected 2016 property and sales tax receipts are 20% and 30% higher, respectively, than 2012.

But the city has also been saddled with extraordinary new operating expenses. Chief among them is the cost of a federally imposed consent decree to improve prison conditions, forcing the city to double funding for the Sheriff's Office from roughly \$30 million to \$60 million. A separate federal consent decree forced changes at the New Orleans Police Department, at a cost of about \$11 million a year. And pension costs have skyrocketed, with city contributions to the firefighters' and police pensions increasing by a combined \$28.7 million since 2009. These challenges came on top of what the administration has described as a \$100 million structural deficit it inherited in 2010.

The city's financial dilemma is compounded by the fact that it has control over only one quarter of the tax revenue that is generated in New Orleans for local purposes. As BGR documented in **a recent report**, the city has been struggling to pay for basic municipal services as some local special purpose entities have enjoyed vast expansions in funding, amassed huge surpluses or

spent on major capital projects without consideration of competing needs.¹ BGR called on the mayor to lead the way in pursuing potential tax rededications, primarily through action in the state Legislature. But the report acknowledged that the sheer size of the city's unmet needs means that some new taxes may be necessary in the meantime. The report cited the city's crumbling streets, crushing firefighter pension obligations and diminished police ranks as examples of unmet funding needs.

It should also be noted that the Orleans Parish millage rate, which plunged after Hurricane Katrina, has been creeping back up, rising from 129.2 mills in 2008 to 151.8 mills in 2016.

With this context in mind, this report examines the bond proposition for streets and other capital projects as well as the proposed tax increases to support the police and fire departments.

BOND PROPOSITION FOR STREETS AND OTHER CAPITAL PROJECTS

What It Would Do

Voters in New Orleans will decide whether to authorize the city to issue \$120 million in general obligation bonds, with the proceeds to be used as follows:

- \$100 million for streets and related improvements to sidewalks, curbing, street lighting, drainage and landscaping.
 - \$15 million for public buildings and facilities as well as parks and recreational facilities.
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- \$5 million for fire trucks, firefighting equipment and land acquisition.

The proposition limits the maturity of the bonds to 30 years and the interest rate to 8%. The bonds would be payable from property tax receipts.²

The city plans to issue \$50 million in bonds in the second half of 2016 and \$70 million in 2018. According to the Board of Liquidation, City Debt, the two bond issues would be repaid over a 30-year life. The combined annual debt service payments would be about \$8 million, or the equivalent of 2.5 mills at current property valuations. The city expects the existing debt service millage to cover the costs of servicing these new bonds without increasing current property taxes.³

Background

In recent years, mounting frustration with the city's crumbling streets spawned a grassroots campaign seeking greater funding for repairs. In response, the mayor has appointed a 13-member task force to help identify long-term funding of the \$9.3 billion the city says it needs to fully repair the streets and subsurface infrastructure in New Orleans.⁴ The Fix My Streets Financing Working Group convened in December. No deadline has been set for it to issue recommendations.

The city received a significant down payment on the street repair costs in December when it announced that FEMA has agreed to provide an additional \$1.2 billion to repair streets and subsurface infrastructure damaged during the Hurricane Katrina disaster. This raised total FEMA funding for such repairs to more than \$2 billion.⁵

City officials said the \$100 million in the bond proposition dedicated to streets would enable the city to fix streets that were not found to be damaged by the disaster and therefore are not eligible for FEMA funding. Specifically, it would cover high-priority street projects identified through a pavement condition survey currently underway.⁶ It would also cover deteriorating street segments that are ineligible for FEMA funding but are adjacent to FEMA projects, in order to close

gaps. They said this comprehensive citywide approach would maximize the benefits of the unprecedented infusion of federal money.

Of the \$50 million in bonds the city plans to issue this year, \$41 million would go to streets as follows: \$20 million for minor streets, \$10 million for major streets, \$8 million for arterials and \$3 million for related improvements, such as bike paths, pedestrian walkways and handicap ramps. The city has not identified any specific street projects.

The bonds to be issued this year also would provide \$9 million for non-street projects as follows: \$5 million for new fire trucks; \$1 million to replace a bridge at Joe W. Brown Regional Park; \$928,588 for emergency repairs to various buildings; \$700,000 for green space restoration, including installing or replacing trees, benches and trash cans; \$598,990 for improvements to the Youth Study Center juvenile detention facility; \$472,422 toward the cost of a new joint police/fire station in Algiers; \$200,000 for playground equipment; and \$100,000 for lighting at parks and recreational facilities.

The city has yet to identify specific projects for the \$70 million in bonds to be issued in 2018. Of that amount, \$59 million would go to streets and related improvements.

The \$120 million bond proposal is the city's first since 2004. That year, voters approved \$260 million in bonds for capital projects, including \$162.9 million for streets and related improvements.⁷ The final \$65 million in bonds from the 2004 authorization was issued in March 2015.⁸

The city began this year with \$536.3 million in outstanding general obligation bonds.⁹ Principal and interest payments on the bonds total \$71.6 million this year and will be covered by the city's 25.5-mill debt service tax.

Analysis

Impact on taxes. When voters approve the sale of general obligation bonds, they agree to pay a property tax sufficient to cover principal and interest on the bonds. The tax rate is determined each year by the Board of

Liquidation. Because debt service costs vary depending on the payment schedule and interest rate for each bond issue, it is impossible to precisely predict the necessary tax rate. Future changes in property valuations add another layer of uncertainty.

If voters approve the proposition, the city plans to issue \$50 million in bonds in the second half of 2016 and \$70 million in 2018. Each bond issue would be repaid over a 30-year life. Assuming an interest rate of 5.25%, the two bond issues would carry combined annual debt service costs of about \$8 million, according to the Board of Liquidation.¹⁰ This would translate to a tax of about 2.5 mills at current assessed property valuations.

Normally, the city's debt service millage would have to increase by this amount to service the new bonds. However, thanks to a refinancing, debt service costs on the outstanding bonds have declined. As a result, the city expects that it will be able to cover the costs for the proposed bonds without increasing the current 25.5-mill debt service tax.¹¹

While the tax rate is not expected to increase, it is important to note that the bond proposition would utilize about 2.5 mills of the current 25.5-mill debt service millage. A 2.5-mill tax amounts to \$68.75 per year for the owner of a \$350,000 residence covered by the homestead exemption.¹² For each additional \$100,000 of value, the tax would be \$25 per year. Commercial property owners would pay \$35 per \$100,000 of value.¹³

Underfunding streets. Given the abysmal condition of the streets in New Orleans, it is beyond dispute that the city has not spent enough on this vital asset. The question is whether the current bond proposition makes the best use of limited public resources to address the problem.

City officials contend the bond proposition would dovetail with the larger infusion of federal money for streets by enabling the city to fix streets that were not damaged during Katrina. They also note that interest rates remain near historic lows, which keeps borrowing costs relatively low.

BGR has previously taken the position that the city should spend more money on streets, particularly for preventive maintenance. A 2008 BGR report concluded that the city's chronic neglect of preventive street maintenance causes repair costs to increase exponentially as the scope of work on neglected streets progresses from filling potholes and sealing cracks to overlaying or reconstructing crumbled streets. BGR urged the city to secure sufficient funding for street maintenance and identified several potential sources that warranted consideration.¹⁴

In recent years, the city has made modest increases in funding for street maintenance. The city's 2016 budget includes \$8.3 million for street maintenance. While that is triple the amount spent on maintenance in 2014, it is still far short of the \$45 million per year that the Department of Public Works has indicated is necessary to adequately maintain the city's streets.¹⁵

Adequate funding for street maintenance is more important now than ever. The city is poised to spend hundreds of millions of federal dollars on street repairs in the coming years. All those miles of newly-paved streets will have to be maintained to fully reap the benefits of this once-in-a-lifetime infrastructure investment.

City officials concur that significantly more money is needed to properly maintain streets. They point out that, as part of its mission, the Fix My Streets task force has been charged with identifying a reliable and sufficient revenue source for street maintenance. The officials acknowledged that money for maintenance should ideally be in place at the outset of a major capital investment. However, they noted that maintenance costs for new streets are relatively low, providing a window of opportunity to find a solution.

Even with the pressing need for street repairs, there are potential drawbacks to funding the work with bond issues that have a 30-year life. The lifespan of streets repaired through the bond proposition may very well be shorter than the repayment period contemplated by the city. According to the city's Department of Public Works, asphalt streets account for about 60% of the city's streets and have an estimated 20-year lifespan.

Concrete streets account for 40% of the streets and have an estimated 30-year life span. These estimates assume that the streets are well maintained.¹⁶ That means streets repaired and rebuilt through the bond proposition might not last as long as the bond issues' 30-year life.

BGR has previously recommended that, consistent with best practices, the lifespan of a capital improvement should not be shorter than the repayment period for the bonds that funded the improvement.¹⁷ The city could address concerns about the lifespan of repaired streets as compared to the repayment period by shortening the term of the proposed bonds.¹⁸

Lack of specific street projects. Providing voters with a list of the street projects to be funded through the bond proposition would help them make more informed decisions. On the other hand, it is laudable that the city plans to take a comprehensive approach to FEMA-funded street projects and use a pavement condition survey to identify other projects to be funded. In its 2008 report on streets, BGR recommended that the city conduct such an assessment to prioritize repair work.

Non-street projects. The city selected the non-street projects through its capital improvement planning process. The City Planning Commission reviews the city's capital needs, estimates the costs of proposed projects, and recommends expenditures and funding sources to the mayor and City Council in a rolling five-year plan that is updated every year. The council had approved and prioritized the projects slated for the first bond issue before the bond proposition was prepared.

As is the case with the street projects, there are concerns that the 30-year life for the bond issues might exceed the useful life of certain items, such as the fire trucks, playground equipment and trash cans. For instance, fire engines and ladder trucks are considered to have a useful life of 15 to 20 years.¹⁹

BGR Position

FOR. BGR is concerned about inadequate funding for routine street maintenance and the life of the debt on

streets exceeding the life of the improvements. However, this relatively modest bond proposition would enable the city to take a more holistic approach to impending street repairs by funding work that either is ineligible for federal disaster funding or will be identified through the pavement condition survey. In the long term, the city, with the assistance of the Fix My Streets task force, should identify and secure adequate funding for street maintenance. The city also should explore ways to better align the duration of the bond repayment period with the expected life of the capital improvements.

TAX INCREASES TO SUPPORT POLICE AND FIRE DEPARTMENTS

What It Would Do

New Orleans voters will decide whether to increase property taxes for police and fire services by a total of 7.5 mills. A 5-mill increase for police would be dedicated to recruiting, hiring, equipping and paying police officers for increased police protection. An increase of 2.5 mills would be dedicated to fire protection. The homestead exemption would not apply to the taxes, which would yield an estimated \$17.7 million annually for police and \$8.9 million for fire protection. The two taxes, which are coupled in a single ballot proposition, would be in effect for 12 years, beginning in 2017.²⁰

Background

A 2014 amendment to the state constitution authorized the city to seek voter approval of the proposed tax increases. The amendment doubled the cap from 5 mills to 10 mills on the police and fire taxes that the city can levy without applying the homestead exemption. The city currently levies 5.26 mills for police services and 5.21 mills for fire protection.²¹

The homestead exemption is a constitutional provision that shields the first \$75,000 of fair market value of owner-occupied homes from state, parish and spe-

cial ad valorem taxes. The exemption does not apply to municipal taxes for general government services, except in New Orleans. There, it applies to all taxes except the police and fire taxes that are the subject of this proposition.²²

The police and fire taxes generate nearly \$3.6 million per mill. Because these taxes apply to a broader base, that is about \$450,000 more per mill than the amount generated by city taxes that are subject to the homestead exemption.

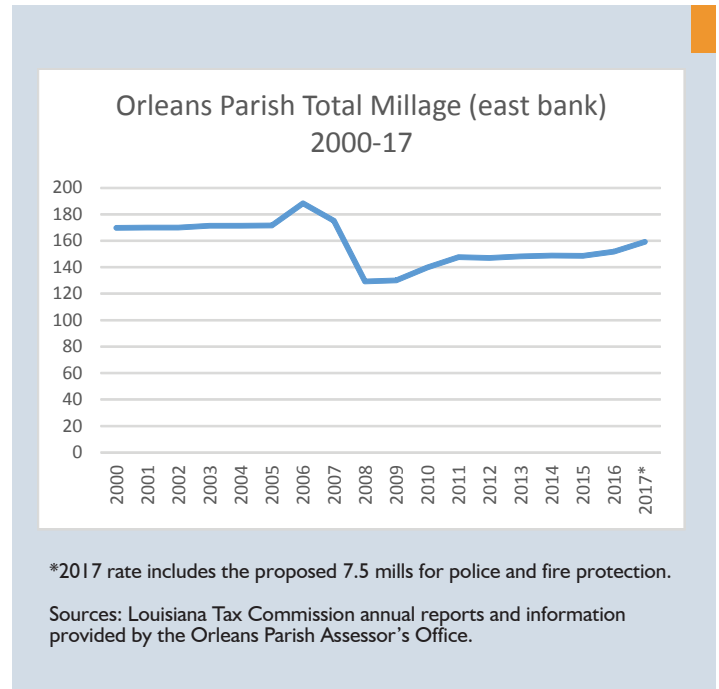
BGR has consistently opposed the homestead exemption on fairness as well as fiscal grounds.²³ In addition to limiting the city’s revenue-generating capacity, the exemption unfairly shifts the tax burden to other property owners. BGR supported the constitutional amendment to double the cap on the police and fire taxes that are not subject to the homestead exemption.²⁴

The constitution specifies that the revenue from the proposed tax increases must be used for police and fire services that directly contribute to residents’ safety. It also prohibits the new revenue from being used to reduce or replace city funding for police and fire services as established in the baseline year of 2013.

Impact on taxes. If voters approve the proposition, the owner of a \$350,000 home would pay an additional \$262.50 in taxes each year.²⁵ For each additional \$100,000 of value, the tax would be \$75 per year. Commercial property owners would pay \$105 per \$100,000 of value.²⁶

If the proposition passes, the total millage rate in Orleans Parish would be 159.28 mills on the east bank and 159.56 on the west bank. As the chart indicates, this would be the highest level since 2007, when the rate was 175.19 mills. The next year, the tax rate plunged to 129.2 mills and has gradually increased to the current level of 151.78 mills (east bank). Prior to Hurricane Katrina, the millage rate had hovered near 170 mills.

Orleans Parish’s tax rate is currently the second highest among the parishes in the metropolitan area. It is also



the second highest among the five most populous parishes across the state.²⁷

Police Tax

The 5-mill police tax would help fund a campaign to add about 450 sworn officers to the city’s current 1,151-officer police force by the end of 2020, a nearly 40% increase. City officials said the hiring push is a response to citizen concerns about public safety and sharp increases in police response times in recent years.

Reaching the goal of 1,600 officers would bring the New Orleans Police Department (NOPD) close to its pre-Hurricane Katrina size. The department averaged about 1,635 officers from 2000-04. It lost about 250 officers soon after the disaster. The NOPD’s ranks hit a post-Katrina high of about 1,520 in 2009. After that, the city implemented a government-wide hiring freeze to help offset a projected \$100 million deficit. The hiring freeze lasted about two years, but even after it was lifted, the department continued to lose more officers than it hired. This pattern ended in 2015, when there was a net gain of about 30 officers.²⁸

The department would need an average net gain of

Table 1: Projected Costs of NOPD Hiring Campaign

All dollar figures are in millions

Expenses*	2017	2018	2019	2020
Personnel	\$11.0	\$17.5	\$24.1	\$31.0
Equipment	\$8.5	\$8.6	\$8.7	\$8.8
Recruitment	\$0.8	\$0.8	\$0.8	\$0.8
Training	\$0.3	\$0.3	\$0.3	\$0.3
Total expenses	\$20.7	\$27.2	\$33.9	\$40.9

Estimated receipts from proposed tax**	2017	2018	2019	2020
	\$17.7	\$18.3	\$18.8	\$19.4

*Expense estimates provided by the NOPD. The estimates are based on additional costs above the department's 2016 budget.

**BGR calculation assuming 3% annual growth.

about 90 officers per year to reach the 1,600-officer goal by 2020, as scheduled.

As Table 1 indicates, the city's projected annual costs for the hiring campaign grow from \$20.7 million in 2017, the first year of the proposed tax, to \$40.9 million by 2020. The tax would cover most of the costs in the first year. In subsequent years, the city would have to rely on other revenues to cover a growing gap between the hiring expenses and the amount the tax would generate. By 2020, the tax would cover only half of the costs, assuming the NOPD reached the 1,600-officer goal.

The personnel costs are based on an average of about \$78,710 in salary and benefits for each additional officer. The projected annual equipment expenditures include \$8.2 million to buy 180 police vehicles a year, for a total of 720 vehicles over four years. That is 270 vehicles more than the roughly 450 officers that the department plans to add during that same timeframe. NOPD officials said some of the new vehicles would replace existing vehicles that are worn out. Annual recruitment expenses of \$750,000 a year include \$250,000 for advertising and another \$250,000 to add three civilian personnel to the recruiting office.

City officials said that if voters reject the tax, the city

could not afford to fully implement the plan. They estimated that if the NOPD reaches its interim goal of expanding the force by about 100 officers by the end of 2016, it would need an additional \$8 million in 2017 to cover the costs of those new officers for a full year. Without the proposed tax, the city might be able to cover these costs by drawing from \$13 million in projected general fund revenue growth in 2017. But the officials emphasized that this would leave just \$5 million to cover any other new general fund expenses in 2017, including efforts to continue growing the police department.

As part of the basis for the 1,600-officer goal, city officials cited an internal NOPD analysis from 2011 that concluded the department needed 1,575 officers to be properly staffed. However, the city indicated that it has no documentation or details of that analysis beyond an e-mail from former NOPD Superintendent Ronal Serpas summarizing the findings.²⁹

According to the e-mail, the analysis involved entering 36 months of calls-for-service data into a software program that estimates appropriate police deployment and staffing levels based of different scenarios. The scenario that Serpas recommended entailed staffing the department at a level sufficient to respond to life-threatening emergencies within eight minutes and to allow officers to spend a third of their time on community policing activities. The program estimated that the department, which employed 1,358 officers at the time, needed an additional 39 officers to achieve those outcomes. In addition, Serpas stated that the department needed 135 new officers to replace detectives, members of special task forces and other non-patrol officers that had been lost during the hiring freeze. He indicated that yet another 43 officers were needed for foot patrols in tourist areas. This brought the recommended size of the department to 1,575.

This analysis provides a rough basis for the city's plan to expand the department to 1,600 officers. Ideally, such a sizable expansion would be based on a comprehensive analysis of the NOPD's manpower needs.

Proponents of the police tax note that a force of 1,600 officers would be smaller than the NOPD's pre-Katrina

force. It also would be just 80 officers more than what the department had as recently as 2009, before the hiring freeze sharply reduced its ranks. The proponents argue that these comparisons indicate 1,600 officers is a reasonable goal.

However, the city's Office of Inspector General (OIG) has cautioned against drawing conclusions about the appropriate size for the NOPD based on comparisons to previous staffing levels. The OIG argued that such conclusions are flawed because they rely on the unexamined assumption that the department was appropriately staffed in the past.³⁰

Prompted by the city's preliminary discussions about expanding the NOPD force, the OIG issued a pair of reports in 2014 and 2015 on the NOPD, one on the department's staffing and another on its funding. The staffing report, issued in May 2014, sharply criticized the NOPD's officer deployment practices. The OIG found that the 251 officers (21% of the force at the time) assigned to handle calls for service were insufficient. The report indicated that at least 61 additional officers were needed to respond to citizens' calls.³¹ It also found that the department was top-heavy and that more than 100 officers were handling duties that could be performed by civilians, including information technology and vehicle maintenance.

The report made several recommendations for using the department's existing personnel more efficiently. These included reducing the number of supervisors, taking steps to reduce false burglar alarms that waste officers' time and hiring more civilian staff to handle non-law-enforcement duties, enabling sworn officers to be redeployed to handle calls for service.

In a written response included in the report, the NOPD asserted that the report presented a distorted view of the department's staffing needs by focusing exclusively on calls for service and ignoring other core law-enforcement functions, such as investigating crimes and community policing.

Since the OIG report was issued, however, the NOPD has worked with the City Council to implement a pro-

gram to crack down on false burglar alarms. The department is also working to civilianize 60 to 70 positions currently held by sworn officers.

Police response times have been a major concern. An October 2015 news report found that average response times had more than quadrupled, from 15 minutes in 2011 to 73 minutes for the first nine months of 2015.³² A contemporaneous news report similarly found that response times had increased from 28 minutes to 89 minutes over roughly the same time period.³³

In January, the NOPD announced plans to redeploy 94 officers to handle calls for service. The department said its goal is to respond to 90% of emergency calls within 7 minutes and to 90% of non-emergency calls within 14 minutes.³⁴

The redeployment, which was being phased in at the time this report was completed, will raise the number of officers handling calls for service to 354, or 31% of the force. That is about half the 60% patrol deployment figure that is both called for by best practices³⁵ and consistent with national norms.³⁶ A crime expert who has studied deployment practices at law-enforcement agencies across the country told BGR that the NOPD's patrol percentage is a clear outlier. He said the situation is likely caused by one or both of the following: (1) Not enough officers are assigned to patrol; (2) The department is overspecialized.³⁷

The NOPD told BGR that New Orleans has a number of unique policing needs that make the 60% patrol benchmark an inappropriate guideline for the department. The department argues that New Orleans' difficult crime problems can be most effectively addressed through a comprehensive policing approach that emphasizes special units and task forces. It also stated that the city frequently hosts special events, which reduces the percentage of officers assigned to patrol. Finally, the NOPD stated that the federal consent decree has increased the department's manpower needs because of increased compliance, training and documentation requirements.

The OIG applauded the recent redeployment, saying

Table 2: Projected Deployment of Officers Added by NOPD’s Hiring Campaign

	Field Operations Bureau	Investigative and Support Bureau	Management Services Bureau	Superintendent’s Office	Public Integrity Bureau	Compliance Bureau	TOTAL
Officers added	312	72	30	6	26	3	449
Current officers	756	168	172	14	29	12	1,151
Total	1,068	240	202	20	55	15	1,600
% increase	41%	43%	17%	43%	90%	25%	39%

Source: City of New Orleans

that patrolling and answering calls for service should be the backbone of a police department.³⁸ While the NOPD has now addressed most of the recommendations from the OIG’s 2014 staffing report, little or no progress has been made in resolving concerns the OIG raised in a May 2015 report on NOPD funding. The report sought to directly address the city’s proposed NOPD expansion by analyzing whether there is evidence that increasing spending on police to attain a force of 1,600 officers would result in better public safety outcomes.³⁹ The OIG concluded that it could not provide an answer because there is not sufficient data about police performance to gauge the effects of changes in spending levels.

Some proponents of the police tax contend that a detailed analysis is not necessary to make the case that the NOPD needs more officers. They assert that the increase in response times is a clear indication that the NOPD is understaffed. They note that the rising response times have coincided with the department’s declining staffing levels.

The argument that the NOPD’s declining ranks have had a negative impact on policing finds some support in an assessment by a former city crime analyst. The analysis stated that several indicators of proactive policing, such as arrests for curfew violations, suspicious persons and DWIs, have dropped sharply as the NOPD’s ranks have declined in recent years.⁴⁰

While the city lacks a comprehensive, documented analysis demonstrating that the NOPD needs 450 additional officers, it has presented a detailed plan for

how those officers would be deployed. About 70% of the additional officers would be assigned to the Field Operations Bureau. This would enable the department to add a special task force and narcotics squad for each district; restore investigative staff and the traffic unit to 2010 levels; and provide an unspecified number of additional officers for patrols and community policing.⁴¹

The Investigative and Support Bureau would gain 72 officers, enabling it to increase homicide staffing to the level recommended by the U.S. Department of Justice; double staffing for the Special Victims Section, the Multi-Agency Gang Unit and the Street Gang Unit; and restore other investigative units to 2010 levels. The Public Integrity Bureau would nearly double from 29 to 55 officers to increase the capacity for internal investigations and handle the additional workload of a growing department. (See Table 2 for more detail.)

Is the plan feasible? The city has had difficulty rebuilding its ranks after Katrina for a number of reasons. The hiring freeze obviously played a major role. But so did other factors such as a 2011 federal consent decree that has mandated sweeping reforms that have placed new demands on officers at the troubled department. As noted above, the NOPD had a net gain of about 30 officers in 2015, marking the first time since 2009 that the number of officers did not decline.

The city’s hiring plan is based on tripling last year’s net gain to 90 officers in each of the next five years. This would require hiring about 185 officers per year to offset the anticipated annual attrition of about 95 officers.⁴²

The department hasn't hired that many officers in a year since 1998.

City officials acknowledge that they have set an ambitious goal. To increase the chances of reaching it, the city plans to spend \$750,000 for recruitment each year, including \$250,000 to a recruiting firm to hire 50 new officers. The department worked with local business leaders to streamline the application process so that applicants can be hired in three to four months. Previously, background checks alone took up to six months. Supporters of the proposed tax also assert that recruiting will get a boost from recent 15% across-the-board raises that have made NOPD starting salaries the highest for any law enforcement agency in the state, except for State Police.

Non-supplant clause. As noted above, the constitution prohibits using revenue from the proposed tax increase to reduce or replace city funding for police services as established in the baseline year of 2013. That baseline number is \$130.1 million. With the proposed police tax increase projected to yield \$17.7 million, the city would have to spend at least \$147.8 million on police in 2017 to comply with this non-supplant clause. Total police spending without the expenses under the hiring campaign is projected to be \$140.2 million in 2017. That means the city must spend at least \$7.6 million of the anticipated \$20.7 million in hiring campaign expenses to meet the \$147.8 million non-supplant threshold.⁴³

This raises the possibility that, if the city does not meet its hiring goals, it could use as much as \$10 million from the tax to offset general fund revenues that would otherwise go to police. These offset general fund revenues could then be used for any municipal purpose. However, this possibility will be diminished as the city expands the size of the force and the costs of the expanded force outpace the new tax revenue. (See Table 1 on page 6.)

Constitutional questions. There are questions about whether the proposed tax increase is higher than what is allowed under the state constitution. The constitution authorizes the city, with voter approval, to levy a police

tax of up to 10 mills. The current police tax was initially approved at 5 mills and was subsequently rolled forward to 5.26 mills because of a drop in property assessments. The proposed 5-mill increase would raise the total tax rate to 10.26 mills, which is above the 10-mill constitutional cap.

City officials said this is permissible because the existing 5.26-mill tax was established at 5 mills and subsequently rolled forward. Therefore, they argue, from a legal standpoint it constitutes only 5 mills of the 10-mill cap.⁴⁴

Even if the proposed 5-mill increase were determined to be in violation of the 10-mill cap, the City Council could resolve the matter by reducing the tax levy by 0.26 mills, the equivalent of less than \$1 million annually.

Fire Tax

The city is asking voters to approve the proposed 2.5-mill fire tax to help pay for an agreement to settle tens of millions of dollars in legal judgments the city owes to firefighters and their beleaguered pension system. However, the settlement is not contingent upon passage of the tax. If the tax is rejected, the city must find other revenues to cover the settlement costs.⁴⁵

Under the agreement reached in October 2015 by the city, the firefighters' union and the New Orleans Firefighter Pension and Relief Fund, the city will pay \$75 million to cover back-pay for firefighters who did not receive raises that the state mandated decades ago. The city also agreed to shore up the firefighters' pension fund by increasing its annual contributions by about \$12 million. In exchange, firefighters gave up their claim to \$68.5 million in interest from the back-pay judgment. Firefighters also agreed to support certain legislative changes to reform pension fund governance and reduce the city's costs for their pensions and other benefits. The three parties signed a cooperative endeavor agreement formalizing the settlement terms this month.

The agreement resolves many of the challenges surrounding the firefighters' pension fund, which a settle-

ment consultant placed among the most financially unsound pension funds he had encountered. The agreement also includes safeguards designed to prevent the fund from falling back into financial distress.

While the rejection of the proposed tax would not derail the settlement, it would affect the timing of the city's \$75 million in back-pay distributions to firefighters. In January, the city made an initial \$15 million payment, consistent with the settlement terms.⁴⁶

If the tax passes, the remaining \$60 million would be paid in annual installments of \$5 million over the 12-year duration of the tax.

If the tax does not pass, the settlement calls for the city to find another revenue source for the remaining back-pay. At a minimum, the city would have to pay \$1 million annually for seven years starting in 2019, \$2 million annually for the following six years, and \$17 million for each year thereafter until the \$60 million was fully paid.⁴⁷ Firefighters agreed to take no legal action to try to accelerate this payment schedule unless the city failed to place another tax proposal before voters prior to 2019. Also, if the tax does not pass and the Legislature does not make the pension changes, the city would not have to dismiss its claims in several lawsuits involving firefighter pensions – something it would otherwise have to do.

The other terms of the settlement would be the same whether voters approve or reject the tax.

While the settlement does not hinge upon approval of the tax, city officials said the tax revenue is needed to cover the city's costs under the settlement. Without the tax, those costs would have to be paid from existing city revenues, probably by cutting other areas of the budget.

The city's additional annual costs under the settlement include about \$12 million for higher pension contributions and \$5 million for back-pay. Some of these \$17 million in new costs will be offset by savings from changes to the firefighters' pension and other benefits.

These savings are difficult to estimate with precision, in part because some rely on matters that the parties have agreed to submit to a judge to resolve.⁴⁸ In addition, the city's contributions to the firefighters' "old" pension fund are projected to decline by about \$700,000 each year. This will free up a growing pool of funds that could be applied to the settlement costs. For example, the reduced costs for the old pension would be about \$700,000 in the first year, \$1.3 million in the second year and \$2 million in the third year.⁴⁹

Given all of the variables at play, it is not possible to precisely assess how well the size of the tax proposal squares with the settlement costs. The bottom line is this: The \$8.9 million that the tax is expected to yield will not be sufficient to fully cover the settlement costs for at least the first several years, but it may well be more than enough in the later years.

City officials emphasized that the settlement costs are in addition to huge increases for the firefighters' pension that are already built into the city's annual budget. City spending on the firefighters' pension has increased 60% from \$27 million in 2009 to a budgeted \$43.2 million this year. The officials stated that if the tax does eventually generate more money than the minimum needed to meet the new settlement costs, that additional revenue could help relieve the pressure the firefighters' pension is placing on other areas of the city's budget. They also emphasized that the tax is temporary, lasting 12 years.

The cooperative endeavor agreement includes a provision that dedicates all revenue from the proposed tax, beyond the back-pay distributions, to pension contributions.⁵⁰ This appears to make back-pay distributions the first priority for the tax revenue. However, the city says it does not believe the provision requires use of tax revenue for back-pay. The city commits to using other revenues for the back-pay distributions and applying the full \$8.9 million from the proposed tax toward the \$12 million in additional pension contributions under the settlement.⁵¹

However, passage of the tax would expedite the back-

pay distribution schedule under the agreement. Some tax proponents say this important because some firefighters have been waiting decades for payments and others have died before receiving the money they were owed. If the tax is approved, firefighters would receive their remaining back-pay in steady \$5 million annual payments starting in 2017. If the tax is rejected, the city would not have to make any payments, beyond the initial \$15 million payment, until 2019, when it would start making small annual payments for 13 years. The lion's share of the payments – a total of \$41 million – would not be made until 2032-34.

The cooperative endeavor agreement calls for an independent board of up to five members with investment experience to advise the pension fund on investment policies and decisions. The city and the firefighters must each appoint one member, but the agreement leaves vague the process for choosing up to three additional members, who may be appointed by unspecified "community/taxpayer groups." If properly executed, the advisory board could serve a valuable oversight function. However, in the absence of a finalized selection process, the advisory board could consist of as few as two members, which would appear to contradict the intent of the provision. The city said it is working to supplement the cooperative endeavor agreement with a defined selection process.

Twin taxes. As previously noted, voters are being asked to approve the police and fire taxes together in a single ballot proposition. The city indicated this was done because both taxes concern public safety, a clear priority for the city. However, pairing the taxes may complicate the decision-making process for voters. The taxes address very different issues, and voters may have mixed opinions on their merits.

The fire tax is relatively straightforward. It is intended to help pay for a settlement to resolve a large, long-standing financial obligation facing the city. While the firefighter settlement does not hinge upon passage of the tax, the money to pay for it must come from somewhere. The tax would provide a temporary funding source to meet these obligations. Without it, the city

will likely have to cut other areas of the budget.

The police tax is more complicated. Ideally, the city's goal of a 1,600-officer police force would be based on a more rigorous analysis of the department's manpower needs. The relatively low percentage of officers assigned to patrol also raises a question about whether current personnel are being deployed as efficiently as they could be. On the other hand, the long police response times represent a clear public safety concern, and the NOPD has crafted a detailed plan for using the new tax revenue.

Approval of the tax would represent a major commitment by taxpayers to give the troubled police department the resources necessary to rebuild its ranks, reduce response times and provide better public safety outcomes. It would be incumbent upon both the city administration and the City Council to closely monitor the department's progress in achieving these outcomes and to take any necessary action if the plan is not working.

BGR Position

FOR. The fire tax will provide the funding to help resolve longstanding city obligations to firefighters. Without the tax, the city would have to cut other areas of the budget in order to fund these obligations. As to the police tax, the funding will help the NOPD to rebuild its ranks to desired levels. The detailed plans for deployment of new officers give taxpayers a clear sense of where their money will go. In addition, the 12-year duration allows voters to revisit the tax if the NOPD does not accomplish its goals. In the meantime, the City Council and administration must hold the NOPD accountable for achieving its goals and carefully calibrate funding to the department's true needs. The goals should include increasing the number of officers assigned to calls for service to bring the NOPD more in line with best practices and similarly sized departments.

ENDNOTES

- 1 Bureau of Governmental Research, *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?*, November 2015.
- 2 New Orleans City Council, Resolution No. R-16-25, adopted February 18, 2016.
- 3 The Board of Liquidation told BGR the projections over time become less certain and that an increase in the debt service millage could be necessary under certain circumstances. The circumstances include, among other things, a significant increase in interest rates, minimal growth or a decline in the total assessed value of property and a low property tax collection rate. The city said it would reduce the amount of the bonds issued if necessary to avoid a tax increase.
- 4 Information provided by the City. The Department of Public Works estimates it would need \$350 million a year for the next 20 years to fix all of the streets and maintain them in fair or better condition. That number, totaling \$7 billion, does not include the cost of subsurface infrastructure.
- 5 Office of the Mayor of New Orleans, “Mayor Landrieu, FEMA Administrator Craig Fugate Announce Final \$2 Billion Settlement for Hurricane Katrina-related Damage to New Orleans’ Roads and Subsurface Infrastructure,” December 10, 2015.
- 6 The comprehensive assessment of the condition of the city’s 1,600 miles of streets is expected to be completed this spring.
- 7 Bureau of Governmental Research, *Issues on the November 2, 2004 Ballot*, October 2004, pp. 7-8.
- 8 Information provided by the Board of Liquidation, City Debt. The city indicated that the remaining projects to be funded include \$1.8 million for repairs to minor and major streets.
- 9 This is less than half the city’s \$1.3 billion statutory debt limit.
- 10 Each of the bond issues also would have one-time issuance costs of about \$450,000.
- 11 The city told BGR that it would reduce the amount of bonds issued, if necessary, to avoid an increase in the debt service millage.
- 12 BGR calculations. BGR used a value of \$350,000 based on data from the New Orleans Metropolitan Association of Realtors, which indicate that the average sale price for a single family home in New Orleans for the 12-month period ending in November 2015 was \$340,594. New Orleans Metropolitan Association of Realtors, “Market Statistics,” www.nomar.org/gsrein-mls-public/market-statistics-public.html.
- 13 BGR assumed that land value accounts for 20% of total value.
- 14 Bureau of Governmental Research, *Street Smarts: Maintaining and Managing New Orleans’ Road Network*, October 2008. The potential sources included redirecting revenue from parking, traffic and red-light camera tickets to pay for street maintenance.
- 15 *Ibid.*, p. 9.
- 16 City Of New Orleans, Department of Public Works, ‘*A Bump in the Road, Connecting, Correcting and Coordinating Street Repairs*, September 14, 2014, p. 9.
- 17 For instance, in *1957 Bond Issue*, January 1957, BGR stated that to spend debt money from long-term bonds on asphalt surfacing “is decidedly unsound public financing.”
- 18 City officials noted that the proposed bonds would be issued as a series of bonds with maturities ranging from one year to 29 years. As a result, the average maturity would be significantly shorter than 29 years. For instance, the officials note that the \$65 million in bonds issued last year have an average life of 18.3 years. However, a significant portion of those bonds have longer maturities, ranging up to 29 years. More to the point, the debt service payments on those bonds are set at \$3.9 million a year for 29 years.
- 19 National Fire Academy Executive Fire Officer Program, *Amortization of Fire Equipment – A Planning Tool*, November 2001, p. 8. The report recommends that fire trucks be replaced after 20 years – 15 years in front-line service and five years of reserve status. Also, the Louisiana Legislative Auditor recommends that local government entities assign a 15-year useful life to fire trucks for depreciation purposes. <https://www.la.la.gov/auditResources/auditTools/documents/sugguse.pdf>
- 20 New Orleans City Council, Resolution No. R-16-1, January 7, 2016.
- 21 Both taxes exceed the previous 5-mill cap because they were rolled forward due to a drop in assessed property values.
- 22 La. Const. Art. VII, Sec. 20(A)(1).
- 23 Bureau of Governmental Research, *Who’s Behind the Tree? The Homestead Exemption and Taxpayers in the New Orleans Area*, March 2009.
- 24 BGR, *On the Ballot: November 4, 2014*, September 25, 2014, p. 7.
- 25 BGR calculations. BGR used a value of \$350,000 based on data from the New Orleans Metropolitan Association of Realtors, which indicate that the average sale price for a single family home in New Orleans for the 12-month period ending in November 2015 was \$340,594. New Orleans Metropolitan Association of Realtors, “Market Statistics,” www.nomar.org/gsrein-mls-public/market-statistics-public.html.
- 26 BGR assumed that land value accounts for 20% of total value.
- 27 Bureau of Governmental Research, *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?*, November 2015, p. 20. St. Tammany Parish (Mandeville) has the highest tax rate at 156.28 mills. The rate in Jefferson Parish (Metairie) is

112.48 mills.

28 Information provided by the City of New Orleans.

29 E-mail correspondence from Ronal W. Serpas to Andrew D. Kopplin and Jerry W. Sneed, September 14, 2011.

30 Office of Inspector General City of New Orleans, *New Orleans Police Department Staffing and Deployment: Meeting the Need of Citizen Calls for Service with Existing Resources*, May 28, 2014, p. 16.

31 Ibid., p 42.

32 NOLA.com | The Times-Picayune and WVUE Fox 8, “New Orleanians on average wait over 1 hour for police to arrive,” October 26, 2015.

33 The New Orleans Advocate and WWL-TV, “Special report: Slower, ‘unacceptable’ New Orleans police response times have become norm; see average wait times by area,” October 27, 2015.

34 New Orleans Police Department Public Information Office, “Chief Harrison Unveils Major Restructuring Effort to Increase Police Presence in Neighborhoods across the City,” January 13, 2016.

35 McCabe, James, *An Analysis of Police Department Staffing: How Many Officers Do You Really Need? A review of 62 police agencies analyzed by the ICMA/CPSM* (International City/County Management Association, Center for Public Safety Management), 2012, p. 10. The report indicates that best practices call for police departments of all sizes to deploy about 60% of officers to patrol duties, including handling calls for service. The average figure for the 62 agencies analyzed in the report was 66%.

36 Among law-enforcement agencies in cities with populations between 250,000 and 499,999, an average of 59% of police officers were assigned to handle calls for service in 2007, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Local Police Departments, 2007*, December 2010, p. 37.

37 BGR telephone interviews with Prof. James McCabe, Criminal Justice Dept., Sacred Heart University, Fairfield, Conn.

38 Office of Inspector General City of New Orleans, “Statement Regarding New Orleans Police Department Restructuring Announcement,” January 13, 2016.

39 Office of Inspector General City of New Orleans, *New Orleans Police Department Funding*, May 6, 2015.

40 Asher, Jeff, “Manpower Shortage or Smart Policy? Assessing a Decline in Arrests in NOLA,” *The New Orleans Advocate*, August 26, 2015. As the police force declined by 17% from 2011 to 2015, arrests dropped 79% for curfew violations, 63% for suspicious persons, 39% for DWI, 20% for drug offenses and 30% for illegal guns.

41 Information provided by the City of New Orleans.

42 Ibid.

43 This is \$13.1 million above the non-supplant threshold. Subtracting this amount from the \$20.7 million in projected spending yields a difference of \$7.6 million that the city would have to spend to exceed the threshold.

44 City officials assert that this interpretation is supported by a previous increase in the fire tax that is subject to the same constitutional restrictions. That tax was rolled forward from 4 mills to 4.21 in 1992. That same year, the City Council increased the tax by adding a mill, raising the total millage to 5.21. The city argues that this did not violate the 5-mill cap because the two components of the tax – a 4-mill levy and a 1-mill levy – were originally set at levels that were within the cap.

45 Cooperative Endeavor Agreement between the City of New Orleans, the New Orleans Firefighters Pension and Relief Fund and New Orleans Firefighters Local 632, signed March 3, 2016, Sec. I(B)(9).

46 The cooperative endeavor agreement requires the city to pay employment taxes on the back-pay distributions. For the \$15 million distribution, this amounted to an additional \$16,000 to cover the city’s Medicare contributions for some firefighters.

47 Cooperative Endeavor Agreement, Sec. I(B)(11).

48 For instance, the parties have agreed to let a judge decide on the proper interpretation of benefits calculations set forth under state law.

49 Estimates provided by the Business Council for New Orleans and the River Region, which helped facilitate the settlement.

50 Cooperative Endeavor Agreement, Sec. I(B)(8). The provision states: “If the voters approve the 2016 Millage Proposition, dedicate to the extent allowed by law any and all revenue collected from the Proposition, beyond the Longevity Class payments, to the City’s funding obligations to the Old and New Funds.”

51 The back-pay issue is significant because, as previously noted, the Louisiana Constitution requires use of revenue from the proposed tax for services that directly contribute to residents’ safety. There are questions about whether back-pay owed from prior years meets this requirement. While the cooperative endeavor agreement was still under negotiation, the city told BGR that back-pay does meet that requirement. The city reasoned that back-pay, regardless of how long ago it should have been paid, is part of firefighters’ compensation and, therefore, is a fundamental cost of providing fire protection. It is not certain that this interpretation would survive a legal challenge. However, if the provision that appears to prioritize back-pay were found to be illegal, it likely could be eliminated under the severability clause in the cooperative endeavor agreement. (See Sec. VIII(E) of the agreement.) Additionally, the city’s commitment to using the tax revenue for pension contributions, and not back pay, seems to overcome the concern of a constitutional violation.

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