

CITY OF SEBASTOPOL CITY COUNCIL

AGENDA ITEM REPORT FOR MEETING OF: September 17, 2024

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To: Honorable Mayor and City Councilmembers
From: Don Schwartz, City Manager
 Mary Gourley, Assistant City Manager
Subject: Policy for Use of ½ Cent Sales Tax (Measure U) (If approved by the Voters at the November 5, 2024 Municipal Election)

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RECOMMENDATIONS:

That the City Council Consider Adoption of a City Council Policy for use of revenue from a ½ cent sales tax increase should voters approve it in November, 2024.

EXECUTIVE SUMMARY:

Sebastopol faces serious financial challenges. For six years we have been using one-time funding for on-going expenses, which is not sustainable. We have substantially reduced our readily-available savings (fund balance). We have extensive deferred maintenance. Our costs are increasing.

Because of these pressures, and in response to community support expressed through a recent survey and polling, the City Council recognized the need for a substantial source of on-going revenue by placing a ½ cent increase in the sales tax on the November ballot (Measure U), with a 12 year duration. The Council also approved directing staff to draft a City Council policy for use of the sales tax proceeds. It should be noted that this policy could be changed at any time with a majority vote of the City Council.

The sales tax is central to a multi-pronged approach to financial stability. Other aspects include:

- a. Reducing expenses, as we did in the recent and prior budgets.
- b. Becoming more efficient with steps such as consolidating fire services with Gold Ridge and combining our Public Works and Engineering Departments.
- c. Setting aside funds in advance to address a forthcoming spike in pension costs.
- d. Pursuing other sources of revenue beyond the sales tax. While the sales tax is foundational to the City’s financial stability, the Council discussed other revenue sources at its September 3 meeting, including steps that we have recently taken and some that are underway. These include updating fees for new development to more fully cover their costs, pursuing an Enhanced Infrastructure Financing District (EIFD) that could use tax increment financing from both the City and County to support City projects, and supporting appropriate new development while maintaining the character of the City.

BACKGROUND ON CITY FINANCES

The FY 24-25 budget includes a deficit of about \$700,000 and extensive use of one-time revenue, which we cannot count on receiving long-term. Together, this represents a structural deficit approximately equal to the proceeds from the sales tax. While it is a crucial piece of any solution, the tax will not create a large pool of additional funding for new or expanded services or projects.

However, we are pursuing a strategic approach to our financial challenges. This is more than ideas or concepts; we are taking concrete steps and many of them are in place. This approach is not easy – it includes painful cuts in expenses and increases in revenue. It is not quick – while some pieces (including the sales tax measure) have

urgency, others will take more time. But there is a path forward for Sebastopol to become financially solid, and in time to provide the services and infrastructure that will support a high quality of life for residents to enjoy.

Reducing expenses is part of that strategy, as we have done this year and in prior years; we will continue to explore opportunities for savings.

Increased efficiency is also important; we need to provide the best value possible for the tax dollar. One example is our plan to consolidate fire services with Gold Ridge and leveraging the resulting economies of scale. Another example is the plan to consolidate our Public Works and Engineering Departments. Combining Community Development and Building is an option we will consider as well.

Properly maintaining the quality of the City's physical assets is another aspect of our strategy. To that end, we have allocated \$300,000 this year for that purpose. Our long-term plan calls for increasing that amount to \$600,000 next year and then to \$900,000/year.

Appropriate economic development that retains Sebastopol's character. This could include well-designed hotels that attract visitors who generate transient occupancy tax and support local businesses, much like in downtown Petaluma. It could also include attracting other businesses to fill vacant retail spaces, though this is a challenge that many cities face in an era of increasing online sales. We are also working with local business leaders to promote collaboration between businesses and the City.

Our strategy also includes *prudent preparation for a forthcoming spike in pension expenses* to pay for liabilities that we incurred in the past without setting aside sufficient funds at the time – a challenge for many cities in California. Fortunately, even with financial challenges in recent years, the City has set aside approximately \$3 million to prepare, with \$2 million in a Section 115 trust to generate higher returns than typical city investments. We expect to start drawing on these funds in FY 26-27 to mitigate the growing expenses.

We are exploring an *Enhanced Infrastructure Financing District (EIFD)* to fund City projects with a portion of the increase in City and County property taxes as property values increase over time as new development occurs. This does not increase property taxes or other taxes.

This strategic approach will take time, and there will be bumps and challenges along the way. While the sales tax measure is foundational, it alone will not be enough. We need to be prudent, and even cautious, about counting on revenues such as taxes generated by hotels until they come to fruition. Yet we also need to recognize that there is a path forward for Sebastopol to become financially solid.

DISCUSSION OF SALES TAX MEASURE:

The ballot question reads: **Sebastopol Public Safety, Roads, City Services Measure:** To maintain Sebastopol's City services such as 911 emergency medical/police/fire response, wildfire/emergency preparedness, maintenance of streets/roads, parks/trails, library, youth and senior services, retaining/attracting local businesses; and for general government use, shall the measure establishing a ½-cent sales tax generating approximately \$1,520,000 annually, terminating after 12 years, requiring audits, public spending disclosure, all funds used locally, be adopted?

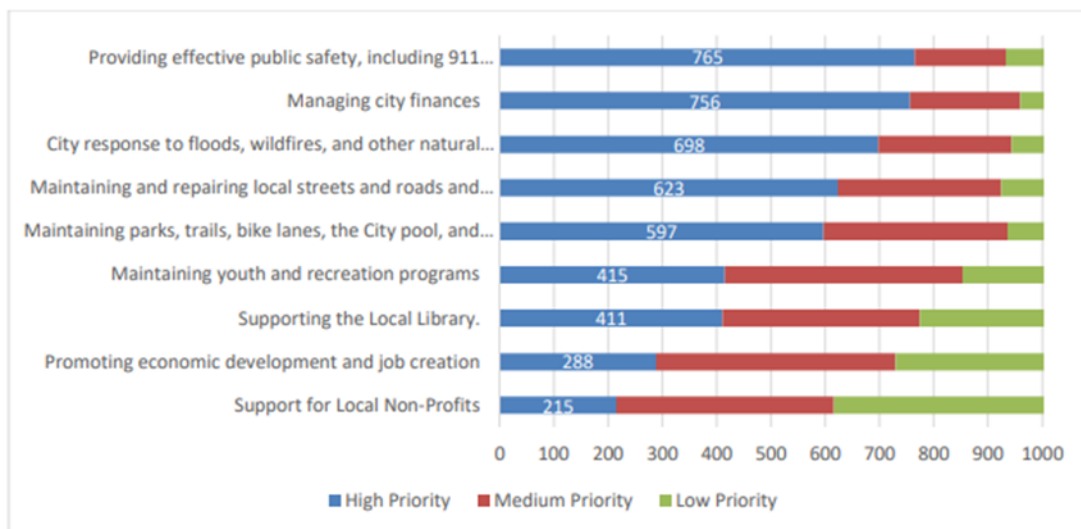
The proposed sales tax is a general tax, which means it can be used for any legal purpose, as determined by the City Council. In contrast, special taxes are legally restricted by the ballot measure itself to a specific use, and the City Council may not use the revenue from a special tax for any other purpose. While the proposed sales tax ballot measure does not legally restrict how the sale tax revenue can be used, the Council can adopt a policy for how it

intends to use the revenue from the tax. The City Council may change the policy at any time by a majority vote. The estimated revenue from this proposed sales tax measure on the November 2024 election is \$1.5 million/year.

During the July 16 meeting and at other times Councilmembers have expressed interest in different uses for funding. These include priorities identified in a Community Survey and polling of residents conducted recently. The Community Survey identified the top three issues of concern to be:

- Providing effective public safety, including 911 emergency medical/police/fire response
- Managing city finances
- City response to floods, wildfires, and other natural disasters

A copy of the survey results is included below for reference.



The Council also conducted a scientific poll for the ballot measure. The poll indicated that 70% of voters would vote yes on the measure when initially asked about the ballot measure. Additionally, 71% of voters were more likely to vote yes after learning the funds could help improve the City's streets and roads, 68% were more likely to vote yes after hearing that funding from the measure could help address property crime and maintain emergency response times, and 68% were more likely to vote yes after hearing that visitors and tourists also pay a portion of the sales taxes generated in the City.

Other potential uses of sales tax revenue for which the Council has expressed interest have included:

- Road and pavement maintenance and/or improvements: Approximately \$450,000/year is needed to keep city streets from further deterioration. An additional \$850,000/year would improve them modestly. The most cost-effective way to preserve streets is to fund projects which protect the quality of the pavement before it deteriorates substantially, after which repairs and repaving become much more expensive. For more information on street maintenance, see the Attached August 19, 2024 memo. Also attached are materials from the City of Larkspur regarding a sales tax policy highly supportive of roads, provided for background information.
- Park maintenance and/or improvements.
- Full staffing, to support emergency response, police, fire and all departments. Staffing levels are at or below minimum levels.

- Programs which reduce demands for Police and Fire response, such as classes on preventing falls among the senior population to reduce demands on the Fire Department or mental health services as an alternative to police responses.

While managing stormwater and the risks of flooding has not been discussed in depth recently with the City Council, this is another area of concern; it is discussed briefly in the attached memo from the Superintendent of Public Works.

STAFF ANALYSIS

There are many options available for the use of increased sales tax revenue. Below is a list of policy options for Council consideration that represents an attempt to reflect public input and Council comments.

1. Retain existing levels of staffing in the Police Department and provide sufficient funding as part of the consolidation of the Fire Department with Gold Ridge. The intent is to address the public's prioritization of public safety, including 911 responses and preparation and responses to natural disasters. Adopting this option essentially recognizes public safety as local government's top priority. We may need to make significant reductions in public safety should the sales tax fail. The Police Department budget for the current Fiscal Year represents 36% of the General Fund budget, while the Fire Department budget represents about 10%. The Fire Department budget for future years will be part of the negotiations with Gold Ridge Fire District.
2. Dedicate 1/3 of the sales tax revenue to high-priority infrastructure needs of roads, streets, drainage, and parks, starting with the FY 25-26 Fiscal Year. This would initially be about \$500,000 year. We would allocate these funds to these needs rather than the reserves for asset preservation discussed below. We suggest this option based on staff's understanding of the public's input from the recent survey and polling, as well as Councilmember comments.
3. Adding staff: The number of City staff is near or below minimally acceptable levels. This is reflected in a staffing study conducted about five years ago as well as the need for the Council to establish priorities among many needs. Staff recommends that the Council consider staffing needs after completion of an updated staffing study proposed for completion in the first half of 2025, and as part of the FY 25-26 budget. Additional support for the Assistant City Manager/City Clerk role was recognized as a particularly high need in the prior study; that need remains today.
4. Reserve FY 24-25 revenue from the sales tax until we are closer to the end of the FY 24-25 Fiscal Year. Should it pass, we anticipate receiving \$250,000 (two months of revenue) that we can apply as revenue in FY 24-25. Because we are early in the Fiscal Year, we recommend not planning on using those funds until the full year financial situation becomes clearer. As noted in the budget and on July 16, we have taken a 'down the middle' approach on revenue projections, which have considerable uncertainty. Additionally, it is unclear how much we will increase our revenue from Planning-related work, the Council has approved some one-time payments to employees valued at \$60,000, and employee negotiations are set to resume later this year. Our Financial Advisor, Bob Leland of Baker Tilly, concurs with this recommendation.
5. In addition to the options above, the Council could:
 - a. Adopt a policy allocating a higher or lower percentage of the funds to the identified uses.
 - b. Adopt a policy allocating a percentage of the funds to other uses.

NOTE: Could add perspectives or options from Budget Committee within report and/or as attachment.

NOTE ON INFRASTRUCTURE AND CITY ASSETS

We recognize that our infrastructure and other City assets (buildings, technology, fleet, etc.) need additional funding beyond 1/3 of the sales tax. With passage of the sales tax, the Council could consider using some of the fund balance in our reserve funds to preserve assets since we will have additional funding for projects or to partially replenish the reserves. The projected reserved levels include:

- Buildings/Facilities/Infrastructure Reserve Fund: \$1,040,235 at end of FY 24-25
- Equipment/Technology/Vehicle Replacement Reserve Fund: \$791,636 at end of FY 24-25

We have recently used or budgeted these funds for urgent needs, such as replacement of the Ives Pool heater. We are also using them for an analysis of the City's fleet to help us manage it properly, and ADA projects at City Hall and the Youth Annex. Keeping these funds largely available for urgent needs is prudent given the City's overall fiscal condition. Without a sales tax increase, staff would be uncomfortable spending significant amounts from these funds given the City's fiscal situation. But with an additional \$1.5 million/year we believe it would be appropriate to consider applying some of this funding to Council priorities that are consistent with their intended use. This includes using the reserves to fill any gaps needed to reach the \$500K/year level suggested by allocating 1/3 of the sales tax proceeds to core infrastructure.

CONCLUSION

If the sales tax passes, it will help the City move towards financial stability and prevent major service reductions. This includes avoiding cuts or layoffs to existing city staff, which is working at maximum capacity to maintain our current service levels. Examples of potential reductions include some considered but not made in the FY 24-25 budget:

- Leaving a Maintenance Worker II position vacant, affecting the maintenance of public spaces and facilities.
- Further reductions in the maintenance of streets, parks, and Ives Pool.
- Leaving Police Officer positions vacant, which would affect public safety.
- Keeping a Dispatcher position open, increasing stress and fatigue for remaining staff.
- Not adding funding for natural disaster response improvements.

If the sales tax measure fails, the consequences will be severe. The City's General Fund balance – essentially our largest unallocated reserve – could be depleted within three years without additional revenue or major cuts. The financial viability of the City would be at risk. We might be able to buy some time by further deferring maintenance, which undermines the integrity of our facilities and viability of services. Another option would be the early use of reserves set aside for the coming spike in pension obligations. While that might be acceptable on a small scale, any large use of these funds pushes the day of reckoning out without solving our challenges.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date. The City has also used social media to promote and advertise the City Council Meeting Agenda Items.

FISCAL IMPACT: There is no direct fiscal impact from adopting a policy. Applying a policy to budget decisions will have impacts.

OPTIONS: See above discussion.

ATTACHMENTS:

1. Memorandum regarding street maintenance
2. Memorandum regarding stormwater system
3. Staff report from Larkspur
4. Sales tax policy from Larkspur

APPROVALS:

Department Head Approval:

Approval Date:

CEQA Determination (Planning):

Approval Date:

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guidelines.

Administrative Services (Financial)

Approval Date:

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable)

City Manager Approval:

Approval Date:

DRAFT

City Council

Mayor Diana Gardner Rich
Vice Mayor Stephen Zollman
Councilmember Neysa Hinton
Councilmember Sandra Maurer
Councilmember Jill McLewis



Agenda Item Number 3

City Manager
Don Schwartz

dschwartz@Cityofsebastopol.gov

Assistant City Manager/City Clerk, MMC

Mary Gourley

mgourley@Cityofsebastopol.gov

City of Sebastopol

MEMORANDUM TO: Don Schwartz, City Manager
FROM: Toni Bertolero, Engineering Consultant, GHD
Dante Del Prete, Public Works Superintendent
Ana Kwong, Administrative Services Director
DATE: August 19, 2024
SUBJECT: Street Maintenance, Pavement Preservation and Rehabilitation Projects

The purpose of this memo is to clarify information pertaining to how much is the City doing in terms of street maintenance, and pavement preservation and rehabilitation of city streets. Street maintenance is budgeted in the annual operating budget, and pavement restoration and rehabilitation projects are budgeted in the Capital Improvement Program (CIP).

Street Maintenance

The Public Works Department, Street Maintenance staff performs routine and general street maintenance throughout the city. Street maintenance includes day-to-day maintenance of roadways, including sidewalks, street pavement, street signage and striping, signals, pedestrian beacons, curb, gutter, storm drains and culverts. Examples of routine maintenance include pothole repairs, repairing sidewalks that have uplifted, replacement of traffic signs, removing debris from roadways and storm drains, trimming of street trees, and coordinating with Caltrans for street-related issues on the State highways (SR 12 and SR 116). General street maintenance is mainly performed by in-house Public Works staff.

For more specialized street maintenance work and large emergency repairs, Public Works hires contractors for work such as thermoplastic marking of crosswalks, electrical repairs of traffic signals, large emergency repairs that cannot be performed by City staff (such as the recent sinkhole specialized repair on Bodega Avenue), and concrete repairs of curb and gutter.

The Public Works street maintenance budget is funded by the General Fund and Gas Tax. See table below for breakdown of revenues and expenditures for street maintenance for the current fiscal year.

Table 1 – Projected Revenues and Expenditures for Street Maintenance Fiscal Year 2024-25

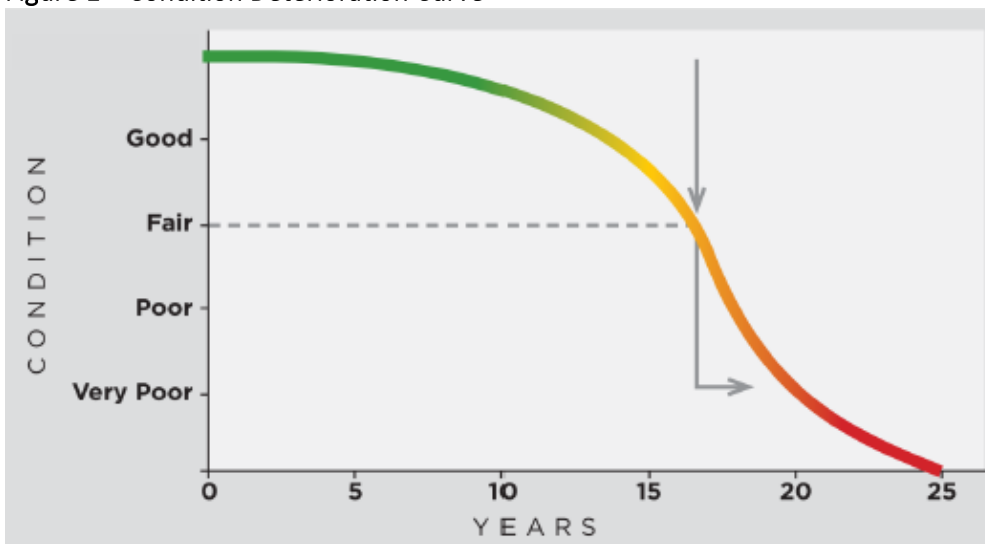
Fund No.	Description	Revenues	Expenditures	Comments
200	Gas Tax	219,735	163,473	Primarily funds salaries & benefits (\$143,808) for street maintenance. The balance of revenues is kept in Gas Tax fund account for emergency repairs that may occur during the year. See fund details on page 122 of adopted budget.
100	General Fund	347,855	347,855	Funds salaries & benefits (\$130,955), services and supplies for street maintenance. See fund details on page 88 of adopted budget.
Total		567,590	511,328	Total salaries & benefits for street maintenance is \$274,763.

Pavement Preservation and Rehabilitation Projects

There are two types of pavement projects in the City’s Pavement Management Program (PMP) and CIP. Pavement preservation is the surface treatment of streets to extend the life of the street pavement that is in fair condition, such as done with slurry seals. Pavement rehabilitation is a more major repair of a street in poor condition such as reconstruction of a road and overlays. The tables and figures in this memorandum are from the “Pavement Management Budget Options Report” prepared by Capitol Asset & Pavement Services, dated January 23, 2023 (“PMP Report”).

In order to optimize limited street capital funds, a more cost-effective approach is used. The reasoning behind this philosophy, is that it is better to treat streets with lower-cost, preventative maintenance treatments such as slurry seals to extend their life cycle before the street condition deteriorates to a state where it requires more costly rehabilitation and reconstruction treatments. Generally, paved streets spend about three-quarters of their life cycle in fair to good condition, where the street shows little sign of deterioration and has a high service level. After this time, the street condition begins to deteriorate at a rapid rate and if not maintained properly, will soon reach a condition where it will require costly overlays and reconstructions. If treated with a surface seal and other preventative measures, the street condition will remain at a good level for a longer period of time. Figure 1 shows a typical condition deterioration curve for a street.

Figure 1 – Condition Deterioration Curve

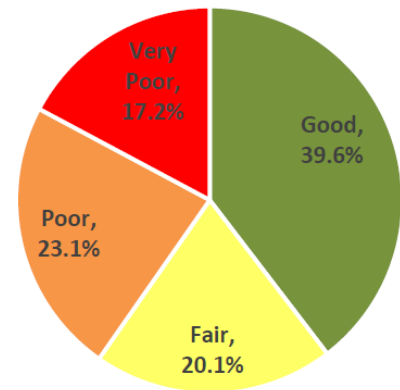


The City’s street network consists of 23.77 centerline miles of streets that it maintains. A detailed visual inspection of the City’s streets was conducted in July 2022 and resulted in a calculated average pavement condition index (PCI) of 55. Using a 0-100 PCI scale, with 100 being the most favorable, a rating of 55 places the City’s street network in the ‘Fair’ condition. The PCI can be thought of as a snapshot and “report card” for the average condition of city streets. Table 3 and Figure 2 below details the percentage of the street network area by each PCI range or condition category.

The PMP report was presented to Council at its April 18, 2023 meeting. At the meeting, Council selected a funding strategy of \$450,000 per year during 3 of the 5 years of the planning period 2023-2027, and funding Bodega Avenue Phase 1 and Phase 2 projects (largely funded with transportation grants) during the other two years of the planning period. Selecting this funding strategy would maintain the City’s PCI of 55 during the 5-year planning period.

Table 3 and Figure 2 – Percent Network Area by Functional Class and Condition

Condition Class	PCI Range	Arterial	Collector	Residential	Total
Good (I)	70-100	1.4%	14.4%	23.8%	39.6%
Fair (II/III)	50-70	0.1%	8.0%	11.9%	20.1%
Poor (IV)	25-50	3.8%	7.6%	11.7%	23.1%
Very Poor (V)	0-25	2.3%	5.2%	9.8%	17.2%
Totals		7.6%	35.2%	57.2%	



Funding Sources for Pavement Preservation and Rehabilitation Projects

The table below shows the various funding sources available for pavement preservation and rehabilitation projects. Funding is limited and the City relies largely on transportation grants to fund major rehabilitation projects such as Bodega Avenue Phase 1 and Phase 2. Generally, transportation grants do not fund strictly pavement preservation and rehabilitation projects. Such grants typically fund multi-modal transportation projects that benefit pedestrian, bicycle and safety projects. The City has been able to fund rehabilitation projects by including pavement rehabilitation as part of, for example, a bicycle lane installation project. Typically grants have local match requirements of anywhere from 10% to 50% of the grant. The City’s other local sources are leveraged by using the local sources as the match for transportation projects in order to avoid using General Fund monies.

Table 2 - Funding Sources for Streets Projects

Fund No.	Fund Name	Annual Revenue Amount	One Time Revenue Amount	Comments
123	Street Pavement Reserve Fund	-	265,000	The fund was established in FY05/06. Historically, the City has transferred discretionary funds to the pavement reserve. In FY19/20, this practice ceased when the General Fund encountered a deficit.
201	Measure M Road Maintenance	85,000		Anticipated to increase to \$125k/year in 2026 as part of “Go Sonoma” plan.
211	Transportation Grant - OBAG2		1,078,000	Federal grant for Bodega Ave. Phase 1
211	Transportation Grant - Go Sonoma		2,240,000	Regional grant for Bodega Ave. Phase 2
217	Road Maintenance & Rehabilitation (SB-1)	195,000		
Total		280,000	3,583,000	

As shown on the table above, approximately \$280,000 is available annually for streets projects and such funding is typically used for local match requirements for transportation grants. Without infusion of additional funding, the City’s goal of \$450,000 per year to maintain its PCI has been and will continue to be unattainable.

Not shown in the table above for street-related projects are Traffic Impact Fees (Fund 213). In Fiscal Year 2024-25, the City is estimated to collect approximately \$389,109 from new development. However, this fund can only be used for projects that enhance roadway capacities such as bike lanes, pedestrian crossing enhancements, traffic signals, etc., and not for pavement preservation and rehabilitation projects.

It should be noted that a visual inspection of the street network will occur this fall 2024 with a new citywide PCI that will be released in spring 2025.



Public Works Department

714 Johnson Street
Sebastopol, CA 95472
Phone: 707-823-5331
Fax: 707-823-4721

Website: www.ci.sebastopol.ca.us

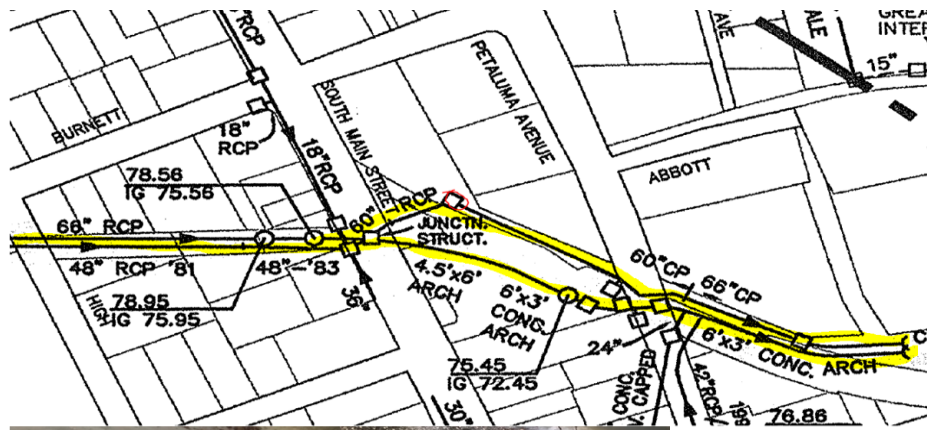
Email: ddelprete@cityofsebastopol.org

Dante Del Prete, Public Works Superintendent

MEMORANDUM TO: Don Schwartz, City Manager
FROM: Dante Del Prete, Public Works Superintendent
DATE: August 21, 2024
SUBJECT: Calder Creek Stormwater System Maintenance Priority

The purpose of the memo is to identify the current condition of the Calder Creek stormwater system as a maintenance priority.

Many of our citywide stormwater systems are in poor condition. With the largest and most concerning stormwater arterial pipes being Calder Creek. Calder Creek enters into two large 60" pipes at east end Ives Park fronting High Street and runs underground until it daylights at the end of Abbott Avenue and the Joe Rodota Trail.



As initially identified by Public Works Staff in 2016 the two 60" pipes have experienced an approximately 50%+ decrease in flow capacity due to the accumulation of built-up silt created by the outfall grade conditions at the Abbott Avenue pipe outlets.



An outfall cleaning project was put on hold in past years due to lack of funding while the Calder Creek hydrology gets completed and the Ives Park Master Plan (which includes creek naturalization) identifies what needs to happen in that entire area.

The City does not actually have funds to do the pipe cleaning work that was estimated to cost \$1.0 million in 2016, so the next step is to prepare the Ives Park Master Plan implementation and Calder Creek hydromodification and apply for a grant for the work.

We have had flooding issues in the past that have hydraulically charged the pipes and popped the storm-water manhole lid off on Petaluma Avenue. The condition also created a large silt deposit on Petaluma Avenue/HWY116 that required an extensive cleanup effort by Public Works Staff.



With more intense winters likely to continue. It is currently unknown how much more than \$1.0 million is needed for the pipe cleaning work as the cost estimate will be updated as part of the Flood Resiliency Master Plan. We have \$325K (Budget Page 117) left available in the flood mitigation fund after spending on Community Cultural Center Flood/Fire repairs, the Sebastopol Community Cultural Center Master Plan, and the Flood Resiliency Plan, all approved in this year's Capital Improvement Plan budget.

We will continue to pursue all possible grants opportunities. Although, there hasn't been many that this project would qualify for and most require a 50% local match.

We have related projects included in the approved CIP (Page 41) that includes.

- Flood Resiliency Master Plan \$170K 2024/25
- Calder Creek Storm Drain and Outfall Maintenance \$260K in 2026/27
- Calder Creek Storm Drain and Outfall Maintenance \$1,125,000 in 2027/28

Please consider this condition a priority as the silt buildup continues to increase over time.

CITY OF LARKSPUR

Staff Report

July 19, 2017 City Council Meeting

DATE: July 11, 2017

TO: Honorable Mayor Haroff and Members of the City Council

FROM: Dan Schwarz, City Manager

SUBJECT: PLACEMENT OF THE RENEWAL OF THE LARKSPUR STREET REPAIR AND ESSENTIAL SERVICES MEASURE ON THE NOVEMBER 7, 2017 BALLOT

ACTION REQUESTED

ADOPT RESOLUTION No. 56/17, CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION ON NOVEMBER 7, 2017 TO CONSIDER THE LARKSPUR ESSENTIAL CITY SERVICES MEASURE; WAIVE FIRST READING BEYOND THE TITLE AND INTRODUCE ORDINANCE No. 1019/17 EXTENDING THE EXISTING, VOTER-APPROVED LOCAL CITY OF LARKSPUR SALES TAX AT THE THREE-QUARTER CENT RATE FOR THE CONTINUED MAINTENANCE OF CITY SERVICES SUCH AS STREET, ROAD AND POTHOLE REPAIR.

SUMMARY

On November 5, 2013, Larkspur voters approved Measure C, the *Larkspur Street Repair and Essential City Services Measure*, which implemented a ½-cent, local transaction and use tax – a local sales tax – that took effect on April 1, 2014. Measure C expires five years after it went in to effect, which means that it expires on April 1, 2019 unless renewed. The measure is a general tax, which must be presented to the voters in conjunction with an election for seats on the City Council. The November 7, 2017 ballot is the last City Council election before Measure C expires. As a result, the City Council must place the renewal of Measure C on the ballot in 2017 if it is to be renewed without an interruption in the collection of locally-controlled revenue for use on behalf of the Larkspur residents.

When the Council placed this measure on the ballot in 2013, it adopted a policy that the primary purpose of revenue would be the repair and rehabilitation of Larkspur's streets. The City has kept this commitment to voters, with at least 92% of revenue spent on Larkspur's roads each year. Because the 2013 measure expires after five years, the City has used the money on a pay-as-you-go approach to road repair, meaning the City has

only spent the revenue after it is generated. This approach has allowed the City to pave many of its streets, but many remain in very poor condition. It is clear that this current Measure C structure will not allow the City to fix every road in Larkspur and put the City in a position to maintain its roads in a cost-effective manner.

Recent public outreach through a survey and a series of community meetings has underscored the public's desire that all of Larkspur's roads receive attention sooner, rather than later. In addition, Larkspur residents want a plan to ensure that the roads are maintained in good condition as we go forward. The City wishes to be responsive to this feedback, as doing so will also allow these repairs to be made when it is less expensive to do. The proposed ordinance empowers the City to meet this demand and accelerate the City's street repair and rehabilitation program so that all Larkspur roads are addressed in the next 3-5 years. It does so by renewing Larkspur's local transaction and use tax at the $\frac{3}{4}$ -cent level until such time as it is ended by Larkspur voters.

BACKGROUND AND DISCUSSION

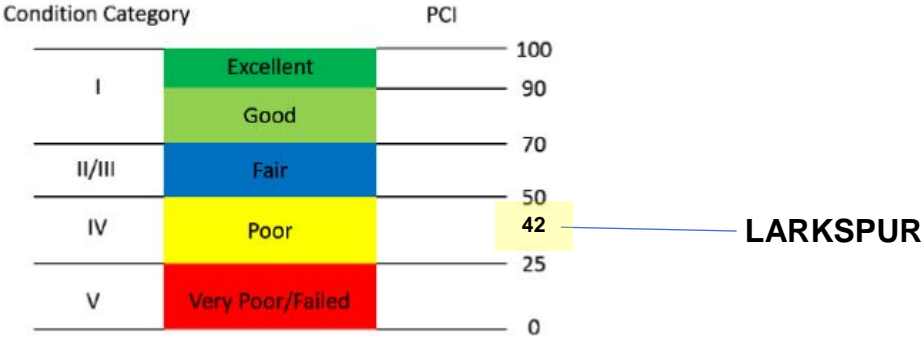
The proposed renewal of the *Larkspur Street Repair and Essential City Services Measure* would empower the City to address several community concerns for which dedicated funding sources are inadequate by continuing a key local revenue stream. Based on community input, the area of greatest concern remains the City's poor road conditions, with 911 emergency response and storm drain conditions also demanding attention.

Accelerating the Larkspur Street Repair and Rehabilitation Program

In community surveys conducted in 2011, 2013, and 2017, as well as numerous community outreach meetings, Larkspur residents have consistently identified Larkspur's poor road conditions as one of their top concerns. The community's dissatisfied opinion is backed by the Pavement Condition Index (PCI), a method of ranking road conditions. The Metropolitan Transportation Commission maintains data for all communities in the nine-county Bay Area; Larkspur has ranked at or near the bottom in PCI for all Bay Area municipalities for many years, including results published in 2016, when Larkspur's PCI of 39 placed it at the very bottom of the rankings.

When voters passed Measure C in 2013, the City Council made a commitment to use at least 80% of the money on street repair. In fact, the City has used at least 92% of Measure C revenue on street repair each year. This money has helped considerably; by the end of 2017, staff anticipates that more than one-fourth of the City's roads will have been paved. Based on an analysis by the City's consultant, Pavement Engineering Inc. (PEI), the City's PCI has increased to 42. Still a rating of "poor," but a step in the right direction.

Current Estimate of City’s Pavement Condition Index (PCI) Score



The analysis by PEI also shows that while Larkspur has experienced a nominal increase in PCI score, the current funding level and pay-as-you-go approach will never get Larkspur out of the “poor” category.

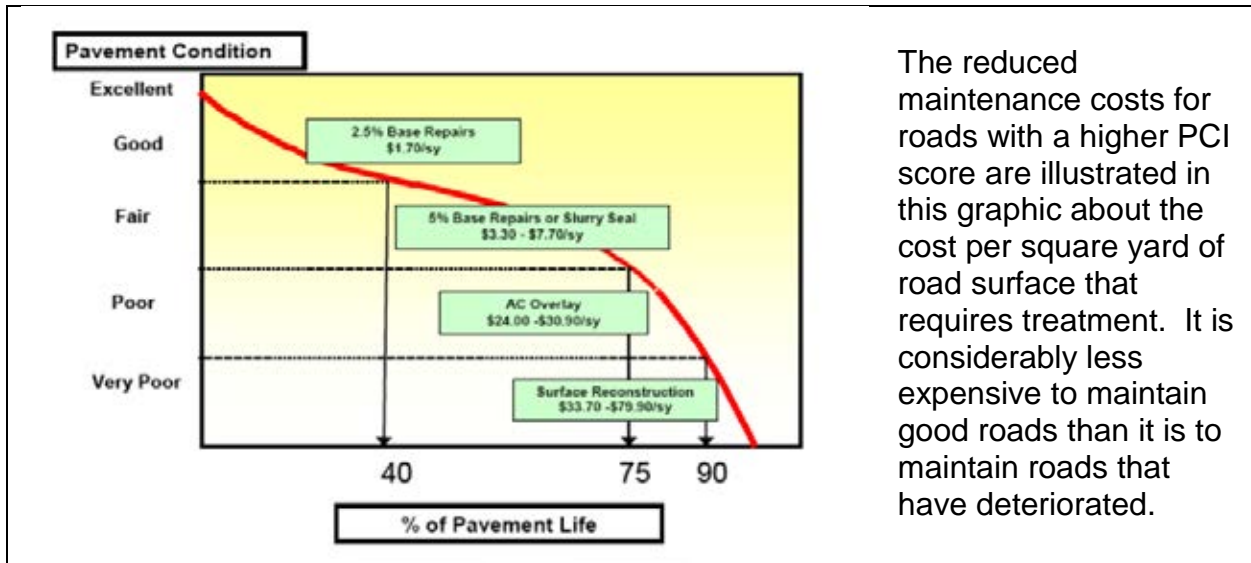
Amount spent annually over the next 5 Years on Street Repairs/New Pavement	Impact to PCI
\$1.5 to \$1.8 million (current approach)	PCI hovers in low 40s (Poor)
\$2.5 million	PCI rises into mid to high 40s (Poor)
\$4 million	PCI rises to high 50s or low 60s (Fair)
\$5 million*	PCI rises to high 60s or low 70s (Fair to Good)
\$7.5 million**	PCI rises to high 70s or low 80s (Good)

*Utilizes a combination of pavement on some streets and slurry seals on other streets. (Staff recommendation)
**All streets are repaved (MTC’s optimal scenario)

Improved roads are less expensive to maintain. PEI also analyzed the annual maintenance cost of Larkspur’s roads if they are improved to the different PCI scores in the next five years.

PCI Score After 5 Years	Annual Maintenance Costs
PCI in low 40s	\$1.8 million
PCI in 60s or 70s	\$900,000
PCI in 70s or 80s*	\$975,000

*Maintenance costs would be higher because most streets would be paved rather than treated with a slurry seal. MTC considers this approach to be the optimal scenario, but it is not implemented in practice. A combination of the two techniques is the most cost-effective approach.



The reduced maintenance costs for roads with a higher PCI score are illustrated in this graphic about the cost per square yard of road surface that requires treatment. It is considerably less expensive to maintain good roads than it is to maintain roads that have deteriorated.

In sum, it is PEI’s conclusion that if the City continues with its pay-as-you-go approach, the City will be unable to improve its PCI score beyond the lower part of the “Poor” range. In addition, our street repair budget will increasingly focus on the maintenance of roads we have already paved or slurry sealed, leaving many neighborhood roads untouched.

To avoid this scenario, the City needs to find a way to fund investment in our roads to the level of at least \$5 million per year over the next five years. This investment would accelerate our street repair and rehabilitation program and put Larkspur in a position to maintain the entire road network at a price point the City can afford. This can be accomplished by renewing the *Larkspur Street Repair and Essential City Services Measure* at the ¾-cent level until such time as it is ended by Larkspur voters and giving the City the option to finance its road investment over a long period of time. Under these parameters, staff believes the City would be able to obtain the \$25-30 million necessary to invest in roads and have the capacity to repay any borrowed money while also maintaining the newly repaired road system.

Per the provisions of the *Larkspur Street Repair and Essential City Services Measure*, the Council appoints a Citizens Oversight Committee that reviews the use of money generated by the sales tax. The Committee shares staff’s belief that the proposed ballot measure is the best way to give Larkspur residents the quality of roads they want and deserve, and to ensure that every road in Larkspur is repaired.

911 Emergency Response

In community surveys and public meetings, residents continue to express their desire that the City’s emergency responders have the tools they need. The *Larkspur Street Repair and Essential City Services Measure* has been instrumental in supporting Larkspur’s emergency response systems. Since the measure first went into effect, money raised has been used to support the removal of tree canopies and other vegetation that impair the passage of large vehicles, such as fire trucks (which often are carrying paramedics to

a medical call), in many of Larkspur's hillside neighborhoods. It has also been used to make improvements to Larkspur's downtown fire station and to lease a new fire engine.

By the end of this calendar year, it is anticipated that the Larkspur and Corte Madera fire departments will combine into the Central Marin Fire Department. While much of the core fire and paramedic infrastructure will become the responsibility of this new entity, there will still be key elements that will be funded by the respective towns. Most significantly, Larkspur will be responsible for completing its lease-to-own arrangement on its new fire engine and for maintaining its two fire stations.¹ If the *Larkspur Street Repair and Essential City Services Measure* is renewed, staff anticipates recommending that a small percentage of revenue continue to be directed to these needs.

Storm Drains

Respondents to the 2017 community survey expressed concern about the condition of the City's storm drain system; residents are concerned that Larkspur's infrastructure is not up to the task of moving runoff to Corte Madera Creek and (eventually) the Bay, without contributing garbage and pollutants to the ocean. There is also a direct relationship between storm drains and road conditions. Many storm drains run beneath our streets and their deterioration threatens the quality of the roads above them.

For the last few years, the City has been mapping and studying its storm drains. In Fiscal Year 2017-2018, the City will complete this process and develop a storm drain master plan. The master plan will serve as the City's guide for cost-effectively investing in the rehabilitation of the storm drain system.

The community's priority is clearly to repair our roads, but the importance of our storm drains should not be lost. If the community renews the *Larkspur Street Repair and Essential City Services Measure*, the initial focus will be repairing every road in Larkspur. When that process is complete and the City knows the annual cost to finance the accelerated road repair program and maintain the newly repaired roads, annual revenue in excess of this need should be directed to the storm drain system.

FISCAL IMPACT

The *Larkspur Street Repair and Essential City Services Measure* went into effect on April 1, 2014. For the last three months of Fiscal Year 2013-14, the measure generated \$142,915. In Fiscal Year 2015-16, the measure generated \$1,144,014. It is anticipated that revenue in Fiscal Year 2016-17 will have exceeded this amount. (There is roughly a two-month lag from collection at the register to receipt by the City.) For the Fiscal Year 2016-17 budget, the City Council accepted and approved the joint recommendation of staff and the Measure C Citizens Oversight Committee to commit \$98,000 to the lease of a fire truck, with all remaining monies collected to be directed to road repair. If the City Council does not choose to place a renewal of the *Larkspur Street Repair and Essential*

¹ Fiscal Year 2016-17 is the second of seven years for which payments of \$98,000 must be made on the fire engine.

City Services Measure on the ballot, the measure will expire on April 1, 2019, and the City will stop collecting this revenue. The budget for the City's Road Repair and Rehabilitation Program would need to be reduced by more than \$1 million annually and the City's lease on its fire truck would need to be covered by the General Fund (necessitating cuts elsewhere).

If the City Council chooses to place the renewal of the *Larkspur Street Repair and Essential City Services Measure* on the ballot as recommended, and it is approved by voters, the City can anticipate total revenue in excess of \$1.5 million annually, based on current conditions.

ENVIRONMENTAL STATUS

None.

STAFF RECOMMENDATION

Staff recommends that the Council (1) adopt Resolution 56/17 and (2) waive reading beyond the title and introduce Ordinance 1019/17.

Respectfully submitted,

Dan Schwarz
City Manager

Attachments

1. Resolution 56/17
2. Ordinance 1019/17

RESOLUTION NO. 56/17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LARKSPUR CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION ON NOVEMBER 7, 2017 TO CONSIDER THE LARKSPUR ESSENTIAL CITY SERVICES MEASURE; APPROVING AN ORDINANCE EXTENDING THE EXISTING, VOTER-APPROVED LOCAL CITY OF LARKSPUR SALES TAX AT THE THREE-QUARTER CENT RATE FOR THE CONTINUED MAINTENANCE OF CITY SERVICES SUCH AS STREET, ROAD AND POTHOLE REPAIR; ORDERING THE SUBMITTAL OF THE ORDINANCE TO THE VOTERS AT THE ELECTION; AND REQUESTING THAT THE MARIN COUNTY BOARD OF SUPERVISORS CONSENT TO THE CONSOLIDATION OF THIS ELECTION WITH THE ESTABLISHED ELECTION TO BE HELD ON THE SAME DATE AND DIRECT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION

WHEREAS, many of Larkspur's neighborhood streets and roads are deteriorating and riddled with cracks; and

WHEREAS, the City seeks to address aging road conditions for the safety of motorists, buses, cyclists, police and fire safety vehicles and the best approach to doing so is to accelerate road repairs so all City roads can be repaved within 5 years; and

WHEREAS, doing so will not only maintain safety, but prevent further deterioration, and lower future maintenance costs as delaying maintenance and repairs to Larkspur's streets and roads only increases costs in the long-run by as much as 40 times higher; and

WHEREAS, funding is also needed to continue to clear hazardous and flammable brush, prevent fires and improve emergency vehicle access, improve drainage in low-lying areas, and retrofit buildings, storm drains and other infrastructure so Larkspur is prepared for natural disasters such as fires, floods and earthquakes; and

WHEREAS, local, voter-approved funding by Larkspur residents has been critical in preventing our roads from falling into further disrepair—maintaining this funding is essential to keeping our roads safe; and

WHEREAS, 90% of existing local funding as spent on road repair and none were spent on salaries or pensions; and

WHEREAS, with recent political changes, the City of Larkspur cannot count on federal or state governments to provide funding as they've done in the past--only by maintaining control locally can the City ensure road repairs, police protection, fire services, storm drain repairs, and other essential city services are adequately preserved; and

WHEREAS, previous voter-approved local funding will expire and needs to be renewed; and

WHEREAS, at its June 7, 2017 meeting, the City Council adopted a budget for Fiscal Year 2017-18 that recognizes the need for additional revenue to continue to address aging road and street conditions, clear hazardous and flammable brush, prevent fires and improve emergency vehicle access, improve drainage in low-lying areas, fix potholes, and retrofit buildings, storm drains and other infrastructure, and fund general municipal services; and

WHEREAS, to obtain the revenue necessary for those projects and services and to maintain general municipal services, the City Council has concluded that it should call an election to ask the voters of the City to continue its local transactions and use tax (“sales tax”) at the three-quarter cent rate; and

WHEREAS, the tax to be submitted to the voters, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property; the tax rate would be three-quarters of one cent for each dollar (0.75%) of the sales price of the property; the tax revenue would be collected by the State Board of Equalization and remitted to the City; and the tax shall be approved if the measure receives at least a simple majority vote of affirmative votes; and

WHEREAS, at the November 2013 election, the voters of the City of Larkspur approved Measure C, a local, half-cent sales tax, to be in effect for five years and sunset in 2018. Measure C was codified as Chapter 3.24 of the Larkspur Municipal Code. This resolution places before the voters a measure to amend and restate Chapter 3.24 to extend the existing tax at the three-quarter cent rate.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Larkspur hereby resolve, declare, determine and order as follows:

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

Section 2. Pursuant to California Constitution Article XIIC, Section 2; Government Code Section 53724; and Elections Code Section 9222, the City Council of the City of Larkspur hereby calls an election at which it shall submit to the qualified voters of the City, the Larkspur Essential City Service Measure, which if approved, would adopt a general transactions and use (sales) tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Marin County Elections Department. Pursuant to Election Code Section 10400 et seq., the election for this measure shall be consolidated with the General Municipal Election to be conducted on November 7, 2017.

Section 3. The question to be presented to the voters shall be as set forth below. This question requires the approval of a majority of qualified electors casting votes:

<p>Larkspur Essential City Services Measure. To maintain City services, including fire protection/911 emergency/medical response; repairing aging, deteriorating neighborhood streets, roads, potholes, major boulevards; clearing brush to prevent fires/improve emergency vehicle access; upgrading storm drains; and other services, shall the City of Larkspur extend the voter-approved sales tax at the $\frac{3}{4}\%$ rate until ended by voters, providing \$1,650,000 annually with authority to incur debt to accelerate infrastructure projects, subject to citizens' oversight/audits?</p>	YES	
	NO	

Section 4. The Ordinance authorizing the general tax to be approved by the voters is as set forth in Attachment 1 hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 7, 2017 election, as required by Revenue and Taxation Code section 7285.9. The Board of Supervisors of the County of Marin is requested to order the County Registrar of Voters to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments and rebuttal arguments (if any) for and against the measure, and to provide absent voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law. The Ordinance specifies that the rate of the transactions tax shall be three-quarters of one percent (0.75%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be three-quarters of one percent (075%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

Section 5. The City Clerk is authorized, instructed and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6. The Board of Supervisors is requested to instruct the Office of the Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City of Larkspur acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City of

Larkspur recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 7. The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. that same day, when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California. The notice of the time and place of holding the election is hereby given, and the City Clerk is authorized to give further notice of the election, as required by law.

Section 8. The schedule and requirements for arguments and the City Attorney's impartial analysis is as follows:

- a. The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on August 2, 2017.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on August 14, 2017.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.
- d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.
- e. Pursuant to California Elections Code Section 9282, the Mayor is hereby authorized to submit a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the Mayor is also authorized to submit a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.
- f. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by _____.
- g. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments

shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.

Section 9. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the Registrar of Voters of the County of Marin, together with the attached ballot measure.

Section 10. The jurisdictional boundaries of the City of Larkspur have not changed since the last general municipal election.

Section 11. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

Section 12. This Resolution shall become effective immediately upon its passage and adoption.

* * * * *

IT IS HEREBY CERTIFIED that the City Council of the City of Larkspur duly introduced and regularly adopted the foregoing resolution at a regular meeting held on the 19th day of July, 2017, by the following vote, to-wit:

AYES: COUNCILMEMBER:
NOES: COUNCILMEMBER:
ABSENT: COUNCILMEMBER:
ABSTAIN: COUNCILMEMBER:

MAYOR

ATTEST:

CITY CLERK

2824421.1

**CITY OF LARKSPUR
ORDINANCE No. 1019/17**

**AN ORDINANCE OF THE CITY OF LARKSPUR
AMENDING CHAPTER 3.24 OF THE LARKSPUR MUNICIPAL CODE
IMPOSING A LOCAL TRANSACTIONS AND USE (SALES) TAX TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

WHEREAS, many of Larkspur's neighborhood streets and roads are deteriorating and riddled with cracks; and

WHEREAS, the City seeks to address aging road conditions for the safety of motorists, buses, cyclists, police and fire safety vehicles and the best approach to doing so is to accelerate road repairs so all City roads can be repaved within 5 years; and

WHEREAS, doing so will not only maintain safety, but prevent further deterioration, and lower future maintenance costs as delaying maintenance and repairs to Larkspur's streets and roads only increases costs in the long-run by as much as 40 times higher; and

WHEREAS, funding is also needed to continue to clear hazardous and flammable brush, prevent fires and improve emergency vehicle access, improve drainage in low-lying areas, and retrofit buildings, storm drains and other infrastructure so Larkspur is prepared for natural disasters such as fires, floods and earthquakes; and

WHEREAS, local, voter-approved funding by Larkspur residents has been critical in preventing our roads from falling into further disrepair—maintaining this funding is essential to keeping our roads safe; and

WHEREAS, 90% of existing local funding as spent on road repair and none were spent on salaries or pensions; and

WHEREAS, with recent political changes, the City of Larkspur cannot count on federal or state governments to provide funding as they've done in the past--only by maintaining control locally can the City ensure road repairs, police protection, fire services, storm drain repairs, and other essential city services are adequately preserved; and

WHEREAS, previous voter-approved local funding will expire and needs to be renewed; and

WHEREAS, at its June 7, 2017 meeting, the City Council adopted a budget for Fiscal Year 2017-18 that recognizes the need for additional revenue to

continue to address aging road conditions, clear hazardous and flammable brush, prevent fires and improve emergency vehicle access, improve drainage in low-lying areas, and retrofit buildings, storm drains and other infrastructure, and fund general municipal services; and

WHEREAS, to obtain the revenue necessary for those projects and services and to maintain general municipal services, the City Council has concluded that it should call an election to ask the voters of the City to continue its local transactions and use tax ("sales tax") at the three-quarter cent rate; and

WHEREAS, the tax to be submitted to the voters, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property; the tax rate would be three-quarters of a cent for each dollar (0.75%) of the sales price of the property; the tax revenue would be collected by the State Board of Equalization and remitted to the City; and the tax shall be approved if the measure receives at least a simple majority vote of affirmative votes; and

WHEREAS, at the November 2013 election, the voters of the City of Larkspur approved Measure C, a local, half-cent transactions and use tax, to be in effect for five years and sunset in 2018. Measure C was codified as Chapter 3.24 of the Larkspur Municipal Code. This ordinance amends and restates Chapter 3.24 to extend the existing tax at the three-quarter cent rate.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LARKSPUR DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The People of Larkspur find that the above Recitals are true and correct and are incorporated herein by reference.

Section 2. Amendment of Larkspur Municipal Code Chapter 3.24. Chapter 3.24 of the Larkspur Municipal Code is hereby amended and restated to read as follows:

3.24.010 Title.

This ordinance shall be known as the Larkspur Transactions and Use Tax Ordinance. The City of Larkspur hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.

3.24.020. Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being as set forth below.

3.24.030 Purpose.

This Ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance

3.24.040 Contract with State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.24.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.75% of the gross receipts of any retailer from the sale of all

tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.24.060 Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.24.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.75% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.24.080 Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.24.090. Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

ATTACHMENT 2

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.
3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
 - B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.24.100 Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Ordinance.

3.24.110 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a

carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

- a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing

purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.24.120 Amendments.

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

3.24.130 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.24.140. Annual Audit; Citizens' Oversight

A. By no later than December 31 of each year after the operative date, the City's independent auditors shall complete a report reviewing the collection, management and expenditure of revenue from the tax authorized by this Chapter. The auditors' report shall be a public document.

B. There shall be a committee consisting of no fewer than five members of the public to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this Chapter. The committee members shall be either Larkspur residents or representatives of Larkspur businesses. The auditors' annual report required by subsection A shall be provided to the committee. By March 31 of each year, the committee shall review the auditors' report and make recommendations to the City Council regarding priorities for expenditures of revenue from the tax authorized by this Chapter for the following budget year. The City Council shall consider the committee's recommendations as part of its budget deliberations.

C. The City Council shall by resolution establish the composition of the committee required by subsection B, setting the terms of office of the committee members, and defining the scope of the committee's responsibilities, which at a minimum shall include reviewing the annual auditor's report and making recommendations to the City Council for use of revenue from the tax authorized by this Chapter. The City Council shall maintain a quorum of appointed committee members while the tax approved by this Chapter is in effect. Appointment of committee members and filling vacancies shall be governed by the resolution establishing the composition and rules of operation of the committee.

D. In the event that the City Council authorizes the incurrence of debt to accelerate infrastructure projects, the committee shall additionally review the expenditure of funds for consistency with the purposes of the debt and make recommendations regarding the use thereof. The auditor shall include expenditure of proceeds of the debt in its annual report.

E. The oversight committee is hereby authorized as part of an annual report to recommend that the City Council submit a measure to Larkspur voters to confirm whether to continue the tax.

3.24.150 Use of Tax Proceeds

All proceeds of the tax levied and imposed under this Chapter shall be paid into the General Fund for use by the City of Larkspur for general municipal services. The City Council is authorized to incur indebtedness in the form of bonds, notes, contractual obligations or other evidences of indebtedness authorized by law to finance or refinance the costs of capital projects, including but not limited to street and storm drain repair and improvement, and to pay any and all costs of issuing or incurring such indebtedness, to fund reserve funds, capitalized interest, costs of credit enhancement, costs of interest rate hedging arrangements or any other financing costs associated with such indebtedness. Such indebtedness shall be solely payable from, and may be secured by a pledge and lien on, the proceeds of the tax levied and imposed hereunder. The annual indebtedness, including principal and interest, shall not exceed the estimated annual proceeds of the tax authorized by this Chapter.

Section 3. Compliance with the California Environmental Quality Act. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The transactions and use tax imposed by the adoption of this Ordinance is general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date and Publication. This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately. Notwithstanding the foregoing, Chapter 3.24 of the Municipal Code shall not be amended until the operative date.

IT IS HEREBY CERTIFIED that the foregoing ordinance was duly introduced at a regular meeting of the Larkspur City Council held on July 19, 2017 and thereafter passed and adopted by the Larkspur City Council, subject to voter approval, on July 26, 2017 by the following vote, to wit:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

ABSTAIN: COUNCILMEMBER

MAYOR

ATTEST:

CITY CLERK

2823759.3

CITY OF LARKSPUR

Staff Report

July 19, 2017 City Council Meeting

DATE: July 12, 2017
TO: Honorable Mayor Haroff and Members of the City Council
FROM: Dan Schwarz, City Manager
SUBJECT: POLICY FOR THE USE OF REVENUES GENERATED BY THE
LARKSPUR STREET REPAIR AND ESSENTIAL SERVICES MEASURE

ACTION REQUESTED

ADOPT RESOLUTION No. 57/17 UPDATING THE CITY COUNCIL'S POLICY REGARDING THE USE OF REVENUE GENERATED BY THE LARKSPUR STREET REPAIR AND ESSENTIAL CITY SERVICES MEASURE.

SUMMARY AND BACKGROUND

At its regular meeting on November 6, 2013, the Council adopted Resolution 87/13, establishing that the City's policy with respect to revenue generated by the *Larkspur Street Repair and Essential City Services Measure*, which had been approved as Measure C the day prior, is:

... that not less than 80% of Measure C money will be directed toward road improvements. The remaining 20% shall be directed to road improvements or to other permissible governmental purposes, including but not limited to the other essential services identified in Measure C, as appropriate.

Councilmembers have expressed a desire to affirm this policy and add that it is the City's goal with the renewed *Larkspur Street Repair and Essential City Services Measure* to accelerate the City's road repair and rehabilitation program to touch all of Larkspur's streets in the next five years. The revised policy also notes the desire of the community to focus monies on emergency services and storm drains with any remaining capacity.

The policy language proposed in the attached resolution expands upon the current language to reflect the Council's expressed intentions should the renewed measure pass:

Not less than 80% of revenue generated by the *Larkspur Street Repair and Essential Services Measure* shall be directed toward road repair, rehabilitation, and maintenance, and related improvements, including sidewalk and accessibility improvements, when deemed necessary by the City Council or required by law. The Council will consider financing plans that accelerate the City's road repair, rehabilitation, and maintenance program so that every road in Larkspur is touched by the program over a period of approximately five years

The remaining 20% may also be directed toward road repair, rehabilitation, and maintenance, or it will be used for other permissible governmental purposes, including, but not limited to, preserving and enhancing the response of emergency services and the repair and maintenance of the City's storm drain system. The City Council will continue to call upon the City staff and the measure's Citizens' Oversight Committee for recommendations about the use of this portion of the revenue.

The resolution also refines the scope of the road repair, rehabilitation, and maintenance program to reflect projects funded by Measure C and anticipated to be funded as part of the renewed measure.

STAFF RECOMMENDATION

Adopt Resolution 57/17.

Respectfully submitted,

Dan Schwarz
City Manager

Attachment

1. Resolution 57/17

CITY OF LARKSPUR
RESOLUTION NO. 57/17

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LARKSPUR
ADOPTING A POLICY REGARDING THE USE OF REVENUE GENERATED
BY THE LARKSPUR STREET REPAIR AND ESSENTIAL CITY SERVICES
MEASURE**

WHEREAS, on November 7, 2017, Larkspur voters will be asked to renew the Larkspur Street Repair and Essential Services Measure, which generates revenue through a transaction and use tax (sales tax);

WHEREAS, through community surveys and at public outreach meetings, Larkspur residents have been clear that repairing Larkspur's roads is the top priority for monies generated by this measure;

WHEREAS, Larkspur residents have also been clear that all of Larkspur's roads should be repaired as quickly as possible;

WHEREAS, the City has a program for road repair, rehabilitation, and maintenance that evaluates the most cost-effective approach to repairing each road segment in Larkspur, be it a complete replacement of the road, a repaving of the road, a treatment of the road with a slurry seal, or some other technique – or combination of techniques – deemed appropriate by the City's engineers;

WHEREAS, the City's road repair, rehabilitation, and maintenance program includes, when deemed necessary or required by law, sidewalk improvements and accessibility improvements such as curb ramps. It also includes curbs, gutters, striping of all kinds, and pedestrian improvements to enhance roadway safety.;

WHEREAS, should the *Larkspur Street Repair and Essential Services Measure* be renewed, the City has developed a plan to accelerate its road repair and maintenance program to touch every road in Larkspur over a period of approximately five years;

WHEREAS, Larkspur residents have also expressed a strong desire that essential services like emergency response and storm drain repair and maintenance receive attention under this measure;

WHEREAS, the City has and will continue to use some monies from this measure to invest in infrastructure for the fire department; and

WHEREAS, the City intends to adopt a storm drain master plan in 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Larkspur adopts the following policy with respect to the *Larkspur Street Repair and Essential Services Measure*:

Not less than 80% of revenue generated by the *Larkspur Street Repair and Essential Services Measure* shall be directed toward road repair, rehabilitation,

ATTACHMENT 1

and maintenance, and related improvements, including sidewalk and accessibility improvements, when deemed necessary by the City Council or required by law. The Council will consider financing plans that accelerate the City’s road repair, rehabilitation, and maintenance program so that every road in Larkspur is touched by the program over a period of approximately five years

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* * * * *

IT IS HEREBY CERTIFIED that the City Council of the City of Larkspur duly introduced and regularly adopted the foregoing resolution at a meeting held on the 19th day of July, 2017, by the following vote, to-wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

ATTEST:

CITY CLERK

MAYOR

CITY OF LARKSPUR

RESOLUTION NO. 57/17

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NOES: COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

ATTEST:

CITY CLERK

MAYOR