



## MEMORANDUM

**TO:** City Council

**FROM:** Whitney McDonald, City Manager  
Timothy Carmel, City Attorney

**BY:** Jessica Matson, Legislative & Information Services Director/City Clerk

**SUBJECT:** Consideration of Adoption of an Ordinance Adding Chapter 3.23 to Title 3 of the Arroyo Grande Municipal Code Regarding a Transaction and Use Tax ("Sales Tax")

**DATE:** June 14, 2022

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### **SUMMARY OF ACTION:**

The Ordinance adds Chapter 3.23 to the Arroyo Grande Municipal Code ("AGMC") regarding a Transaction & Use Tax ("Sales Tax"). The Ordinance will become effective if the voters approve the proposed Sales Tax measure at the November 8, 2022 General Municipal Election.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

There is no financial impact from adopting the Ordinance. However, if approved by the voters, the sales tax measure would generate approximately \$5.6 million in additional annual revenue. As a general tax, the proceeds would be deposited into the General Fund and may be used for any lawful purpose, as designated by the City Council, including maintaining the City's streets, sidewalks, and stormwater infrastructure, as well as for other underfunded City programs and services.

### **RECOMMENDATION:**

Adopt an Ordinance adding Chapter 3.23 to Title 3 of the Arroyo Grande Municipal Code regarding a Transaction and Use Tax.

### **BACKGROUND:**

On May 28, 2019, the City Council discussed the City's revenue and potential opportunities to increase revenue in the face of rising business costs (Attachment 6). At that time, the staff report recognized the work of previous assessments of unfunded or severely underfunded needs for core City infrastructure, including pavement (roads and parking lots), sidewalks, drainage facilities, parks, and government buildings (Attachment 9). These assessments indicated that, at the time, the City needed to invest an additional

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\$2.4 million annually to maintain existing facilities. It was also noted that this investment would still result in a decrease in the pavement condition index (PCI) of the City’s existing street infrastructure over time and that an additional \$1.16 million would be needed to keep the PCI at 70 and avoid larger maintenance costs in the future. Together, these needs totaled over \$3.5 million in unfunded annual infrastructure maintenance in May 2019.

Following discussion on May 28, 2019, Council directed staff to seek more information about community surveys and the ballot measure process for a potential local sales tax increase. Further information was provided regarding community survey options on August 13, 2019, and Council authorized the City Manager to select a professional research firm to conduct a statistically valid voter opinion survey of Arroyo Grande voters. On January 28, 2020, Council received a presentation of the community survey results from True North Research (Attachment 5).

At its June 23, 2020 meeting, the City Council received a comprehensive presentation regarding a proposed revenue measure to address the City’s future funding needs and provided direction to staff to prepare a proposed 1% (increasing from 7.75% to 8.75%) local sales tax revenue measure for the November 3, 2020 ballot (Attachment 4). On July 14, 2020, the City Council considered placing the Local Transaction and Use Tax Measure on the November 3, 2020 Ballot. Extensive Council discussion ensued and, ultimately, Council did not direct pursuit of a measure at that time, primarily due to the unknown financial impacts on the City’s residents as a result of the COVID-19 pandemic.

On April 27, 2021, the City Council considered and established goals and priorities for incorporation into the upcoming Biennial Budget. The adopted goals and priorities were included within the Fiscal Years 2021-23 Biennial Budget and addressed three broad categories:

- Investing in the Future
- Investing in City Infrastructure and Facilities
- Investing in People.

Within the “Investing in City Infrastructure and Facilities” category, an item was included to “identify and pursue short- and long-term funding mechanisms, such as a sales tax measure, for pavement maintenance and other infrastructure maintenance needs.”

At its April 26, 2022 meeting, the City Council received a comprehensive report and presentation regarding the City’s pavement, sidewalk, and stormwater infrastructure maintenance needs and options for financing those needs, including a potential general revenue sales tax measure (Attachment 3). As reported in the 2022 Pavement Management Program Update presented on April 26, 2022, despite past efforts, the condition of the City’s streets has significantly declined. On a pavement condition scale

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of 0 to 100, the City’s streets now rank an average PCI of 56, down from an average PCI of 69 in 2016. As explained in the April 26, 2022 staff report, in order to maintain an overall PCI of “Fair” (PCI range of 51 to 70), approximately \$6.25 million is needed annually to maintain the City’s current pavement PCI. However, the City has historically only been able to allocate approximately \$1.25 million annually to pavement maintenance from its existing revenue sources.

At the April 26, 2022 meeting, staff recommended that a potential new 1% sales tax measure include the following provisions that provide accountability and transparency, consistent with the practices included in Measure O-06:

- Publication of an Annual Local Sales Tax Allocation Report
- Public hearing to determine ongoing necessity for the tax every 5 years

Following consideration and discussion of the presentation on April 26, 2022, the City Council provided direction to staff to prepare a proposed 1% (increasing from 7.75% to 8.75%) local sales tax revenue measure for the November 8, 2022 ballot.

At its May 24, 2022 meeting, the City Council adopted Resolutions and introduced the Ordinance enabling the voters to determine at the November 8, 2022 General Municipal Election whether to enact a local transactions and use tax (“sales tax”) that would provide additional general revenue to the City (Attachment 2).

#### **ANALYSIS OF ISSUES:**

Revenue and Taxation Code Section 7285.9 authorizes the City to increase a transactions and use tax for general purposes, and provides that the ordinance proposing the tax is to be approved by a two-thirds vote of all members of that governing body. Likewise, for general taxes, Government Code Section 53724(b) provides that the ordinance or resolution proposing the tax must be approved by a 2/3rd vote of the legislative body. The required Ordinance was introduced by a unanimous vote of the City Council on May 24, 2022, and is now ready for adoption. Pursuant to the terms of the Ordinance, it is subject to voter approval and will not be effective unless approved by a majority of voters on November 8, 2022.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council’s consideration:

1. Adopt the Ordinance adding Chapter 3.23 to Title 3 of the Arroyo Grande Municipal Code regarding a Transaction and Use Tax; or
2. Provide other direction to staff.

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**ADVANTAGES:**

Adopting the Ordinance will meet the provisions required by the California Elections, Revenue and Taxation, and Government Codes for submitting to the voters a measure relating to the establishment of a local sales tax in the City.

**DISADVANTAGES:**

No disadvantages have been identified.

**ENVIRONMENTAL REVIEW:**

Adoption of this Ordinance is exempt from environmental review as the adoption of this Ordinance does not qualify as a “project” pursuant to the California Environmental Quality Act, under Public Resource Code Section 21065 and CEQA Guidelines Section 15320, 15378, and 15061(b)(3), as there is no possibility that such action would cause either a direct, or reasonably foreseeable indirect, physical change in the environment.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. A Summary of the Ordinance was published in the Newspaper in accordance with Government Code Section 40806.

**Attachments:**

1. Proposed Ordinance
2. May 24, 2022 Staff Report and Attachments
3. April 26, 2022 Staff Report and Attachments
4. June 23, 2020 Staff Report and Attachments
5. January 28, 2020 Staff Report and Attachments
6. May 28, 2019 Staff Report and Attachments