City of Gilroy

STAFF REPORT

Agenda Item Title:	**Adopt a Resolution of the City Council of the City of Gilroy Calling and Giving Notice of, on Its Own Motion, the Submission to the Electors of the City of Gilroy at a Special Municipal Election, to be Consolidated with the Statewide General Election on November 5, 2024, a Ballot Measure Proposal to Add a 0.25% Dedicated Public Safety Special Transactions and Use Tax**
Meeting Date:	June 17, 2024
From:	Jimmy Forbis, City Administrator
Department:	Administration
Submitted By:	Jimmy Forbis, City Administrator
Prepared By:	Jimmy Forbis, City Administrator

STRATEGIC PLAN GOALS

Develop a Financially Resilient Organization
Ensure Neighborhood Equity from City Services

RECOMMENDATION

Council:

a) Discussion and consideration of a Council-sponsored, public safety dedicated special transactions and use tax for the November 5, 2024 statewide general election;
b) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 5, 2024 Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;
c) Council discussion and consideration of whether to direct the City Clerk to transmit a copy of the measure to the City Attorney to prepare an impartial analysis, pursuant to Elections Code Section 9280;
d) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure in the November 5, 2024

Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;

e) If Council wishes to proceed with the public safety dedicated special transactions and use tax, adopt with any modifications as may be directed by Council a resolution of the City Council of the City of Gilroy calling and giving notice of, on its own motion, the submission to the electors of the City of Gilroy at a special municipal election, to be consolidated with the statewide general election on November 5, 2024, a ballot measure proposal to add a 0.25% dedicated public safety special transactions and use tax; and
f) Council review and provide direction regarding the draft Public Safety Special Transactions and Use Tax Implementation Plan.

EXECUTIVE SUMMARY

As the City currently has no viable funding options (other than reducing services in other departments) to increase public safety staffing and services, City staff is proposing to Council a resolution to call for a special municipal election to adopt a 0.25% special transactions and use tax that would be dedicated to funding public safety, including police and fire services and police and fire infrastructure.

If approved, staff will submit the special municipal election resolution and ballot language for inclusion in and consolidation with the November 5, 2024 general election.

BACKGROUND

Since the 2009 recession, the City's staffing levels have not returned to pre-recession levels, and to compound the issue, the City was forced to eliminate additional positions during the COVID-19 closure and financial impact. After the recession but before the pandemic, City staff conducted several comprehensive studies, some regarding staffing specifically in the Police Department and our standards of coverage plan for our Fire Department, which included staffing as part of its recommendations. Both efforts revealed a need for additional public safety staffing and infrastructure.

Public Safety (police, fire, and ambulance services combined) is not just one of the largest expenditures for cities, including the City of Gilroy, but also a crucial pillar of our community. The City's public safety services are expenditures in the City's General Fund, which receives its funds primarily from taxes and fees to a lesser amount. The General Fund is discretionary, meaning the City can use these funds for any City purpose, unlike special revenues or other funding sources with restrictions. Because of this discretionary nature, the fund has the largest demands placed upon it, and often, the needs of multiple departments and programs compete for the same General Fund dollars. The amount of available resources compared to the City's overall service needs

creates a situation where any increase in service in one area usually requires a reduction of services in another area.

At the April 8, 2024, regular City Council meeting, staff presented a report to the Council to consider placing a dedicated public safety sales tax measure on the November 5, 2024, election ballot. This measure addresses the pressing need for additional public safety resources by determining if the Gilroy community is willing to pay increased taxes for increased services. That staff report is attached. Council directed staff to proceed with the development of a measure to bring back for Council consideration.

ANALYSIS

Public Safety Needs and Funding Review

At the April 8th City Council meeting, staff presented a detailed assessment of the need and funding history related to public safety in Gilroy in a Council staff report (attached). In summary, funding for public safety has increased over the past ten fiscal years. Still, the proportion of public safety expenditures for the General Fund has decreased slightly as additional demands for services and regulatory requirements for various services have consumed other portions of the General Fund, limiting its use for public safety purposes.

With population growth, service call volume increases, and an overall demand for public safety services, the need for public safety staff and resources has significantly increased. While it is possible to reallocate funds from other programs or departments to meet this demand, such a move would inevitably lead to a reduction in service levels in other areas, a scenario that would not be acceptable to our residents. Budget reductions in departments can lead to severe impacts on service levels, and in some cases, even the elimination of entire programs and departments, which would ultimately diminish the overall services provided to city residents.

Overall, the ongoing departmental analysis identified that the Police Department needs 15 new positions and the Fire Department needs 17 new positions; an assumption that is based on previous, independently determined staffing studies that were later adjusted for population growth since the timeframe the study was conducted, and a current assessment of staffing needed for adequate fire service coverage, respectively. This assessment identifies the current need, but the needs will only continue to increase as the community grows. In addition to direct service provision, the need for additional facilities and infrastructure to house and deliver these services will also expand, requiring more funding to develop, construct, and maintain essential public safety facilities to deliver the critical life and health protection services that the City's public safety departments provide. To add the necessary 32 public safety positions, the

General Fund must identify approximately $5-$6 million annually in reallocated revenue, or approximately 10% of the current general fund would need to be reallocated from other services.

Ballot Measure

California state law requires a two-thirds vote of the qualified voters of the city voting in an election on the issue for approval of tax measures with revenue legally dedicated to a specific purpose (special tax). In addition, under Article XIIIC, Section 2(b) of the California Constitution, increases in general taxes must be submitted to the voters at a regularly scheduled general election, except in cases of emergency declared by a unanimous vote of the City Council.

As explained in more detail below, local transactions and use tax (sometimes referred to as a sales tax) are paid by purchasers of retail taxable goods from businesses located in Gilroy. Thus, transactions and use tax is imposed on purchasers of goods, whether Gilroy residents or not. In this way, the tax burden is not imposed exclusively on Gilroy residents. Local transactions and use tax measures have enjoyed recent popularity because the cost increment is low, and it is not a property-based tax. Out-of-town visitors share in the cost, and the transactions and use tax is not applied to groceries or prescription medication.

Ballot Measure Language
The attached resolution proposes to place an enabling ordinance on the November 5, 2024, ballot to add a local special transactions and use tax dedicated to public safety (police, fire, and ambulance services and public safety-related infrastructure) on an ongoing basis, at the rate of one-quarter (1/4) cent.

Procedurally, in order to place this measure on the November 5, 2024 ballot, the City Council must adopt a resolution to seek voter approval of the ordinance establishing the transactions and use tax at the November 5, 2024 election.

The question to be placed before the voters is:

> “To generate funding that cannot be seized by the State, but stays in Gilroy and is dedicated to public safety (police, fire and ambulance) services and public safety infrastructure projects, shall Gilroy enact a quarter-cent transactions and use tax; and include a citizen oversight committee and annual audits for the tax?”

Because the proposed measure makes clear that the revenue is restricted to be used only for public safety services, it is a special tax. It will require the approval of a two-thirds vote of the qualified voters of the city voting in an election on this issue.

Additionally, the ordinance requires the formation of a seven-member committee 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 Gilroy residents and selected by the City Council membership with terms running concurrent to the appointment of Council Members, with any new Council Members appointing a new resident. The committee's report and recommendations shall be completed by a pre-determined date to allow it to be considered part of the annual budget process. The committee's report and recommendations shall be a matter of public record and shall be considered by the City Council at a public meeting.

Sales Tax Ordinance Content
The Ordinance that would effectuate the transactions and use tax establishes the following major points:

- Limitations on use of proceeds. The ordinance establishes that the funds may only be used for public safety services, equipment and infrastructure. These are defined in 12 classifications under three sections: Police, Fire and Public Safety Infrastructure. The classifications may be found in subsection 22.45(a). The classifications are copied below for easier reference:

  22.45 Permissible uses: Implementation Plan.
  (a) The revenues of the tax shall only be used to fund the following uses and purposes. Funding with tax revenues of all other uses and purposes, except as provided in subsections (c) through (e) of this section, is prohibited.
  1. Law Enforcement, Police and Public Safety.
     i. Law enforcement and police patrol services;
     ii. Police traffic safety and enforcement services;
     iii. Gang enforcement, school resource services, and violence reduction;
     iv. Police support services, including equipment and the financing thereof;
     v. Mental health response teams, services and resources.
  2. Firefighting, Paramedics, Wildfire Risk Reduction and Public Safety.
     i. Maintain firefighter and paramedic staffing levels to maintain rapid 9-1-1 emergency response times;
     ii. Hire additional firefighters and paramedics to staff fire stations;
     iii. Establishment of additional paramedic units within the Fire Department, including advanced life support paramedic teams;
     iv. Purchase of specialized equipment for Fire Department use and the financing thereof;

v. Programs and services to reduce wildfire risk, including early fire alerts, evacuation planning, defensible space inspections and vegetation management;
vi. Mental health response teams, services and resources.

3. Public Safety Infrastructure.
   i. Maintain, enhance, construct, and/or relocate fire and/or police stations and facilities (including, but not limited to, land acquisition, facilities design, and use of temporary facilities) and the financing thereof;

- Implementation Plan. The ordinance establishes the development and adoption by Council resolution of an implementation plan, which outlines the allocation amounts between the three above categories. The implementation plan is reviewed by an oversight committee, which issues a recommendation to the City Council. The City Council ultimately adopts the allocation plan. The allocation plan cannot authorize funding outside of the public safety purposes provided in the ordinance.

- Non-Supplanting of Existing Funding. The revenue from the potential transactions and use tax shall not supplant the ongoing General Fund appropriations for Police and Fire at the amount adopted for Fiscal Year 2024-25, unless a finding that a financial crisis or catastrophic disaster has occurred, which any reduction of the amount of General Fund appropriations below that level may only be approved by a two-thirds vote of the City Council.

- Tax rate. The ordinance establishes the tax rate at 0.25%. This is applied on most goods, but the ordinance includes exemptions as listed in State Law, as well as a few specified exemptions.

- Operative date and state contracts. The operative date for the tax to be applied, if approved, is April of 2025. The ordinance outlines that two agreements with the California Department of Tax and Fee Administration must be effectuated to collect and administer the tax. Should the timeframe for these agreements to be put into place extend beyond the April 1, 2025 operative date, the tax will not become operative until the agreements are completed.

- Oversight committee, auditing and reporting. The ordinance provides that by the end of each fiscal year, the City's independent auditors shall complete a report reviewing the collection, management and expenditure of revenue from the tax.

  Additionally, the ordinance requires the formation of a seven-member committee 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 Gilroy residents and selected by the City Council membership, with committee member terms running concurrent to each Council Member's election/appointment date. The

committee's report and recommendations shall be completed by a date that allows it to be considered part of the annual budget process. The committee's report and recommendations shall be a matter of public record and be considered by the City Council at a public meeting.

ANALYSIS OF TRANSACTIONS AND USE TAX

Although sometimes referred to as a "local sales tax", this revenue source is formally known as a 'transactions and use tax" in State law. A transaction and use tax is imposed on the same goods and merchandise as a sales tax; however, a sales tax (formally known in State law as a Bradley-Burns sales and use tax) is allocated to the jurisdiction where the sale is negotiated or the order for the sale is taken. A transactions and use tax, on the other hand, is allocated to the City where the goods are delivered or placed into use.

For example, merchandise purchased in a "walk-in" retail store is assumed by the State to be used within the city in which the store is located, unless the retailer is asked to ship the merchandise outside the city as part of the sale or it is a motor vehicle that can be driven away. For sales contracts that require shipment of merchandise, the local sales tax (transactions and use tax) is levied for the city to where the merchandise is shipped. A similar situation exists with vehicles that require registration: the local sales tax (transactions and use tax) of the city in which the vehicle is registered applies, regardless of where it was purchased.

Operative Date and State Contracts

Should a local transactions and use tax measure passes, Gilroy will enter into two contracts with the State of California Department of Tax and Fee Administration (“CDTFA”), with all revenue remitted to the City minus the State’s administration fee. The first contract will set up the tax and the second contract will be established for ongoing administration. Pursuant to the ballot measure if approved by the voters on November 5, 2024, as of April 1, 2025, such tax shall be imposed at a rate of 0.25%.

STAFF RECOMMENDATION ON SALES TAX MEASURE APPROACH

City staff identified that a transactions and use tax measure is the best approach for local voter support to fund public safety services.

<u>Participant Diversity</u>

Transactions and use tax is paid on a wide variety of goods, excluding (primarily) groceries and medicine. It is therefore a highly diversified source of revenue. A transactions and use tax would be paid by a wide variety of individuals, including residents, local businesses, and workers in the City, and individuals from outside the City who purchase taxable goods in the City. Transactions and use taxes on motor vehicle purchases would be paid only by individuals registering the vehicle in Gilroy, regardless of where the vehicle was purchased. The transactions and use tax would be paid by the highest number of payers relative to other revenue options such as a parcel

tax or increase in the utility user's tax, and therefore has the most participant diversity of the three options. It is estimated that approximately 50% of these transactions and use tax would be funded by non-Gilroy residents.

Impact on Low/Fixed Income Residents
A transactions and use tax increase would be paid only by purchasers of taxable goods in Gilroy. Because low income and fixed income individuals spend a larger proportion of their incomes on non-taxable goods and services, a transactions and use tax increase does not typically have a significant impact on these individuals. Further, many purchases subject to the transactions and use tax are discretionary purchases, allowing low- and fixed-income individuals to realize minimal impacts of the new tax.

Impact on the Business Community
A transactions and use tax increase would have a low impact on the business community, as the tax would be paid by purchasers of taxable goods rather than the business itself. Most office and service businesses would see little impact except for their own purchases of taxable goods in Gilroy.

Impact on the Residential Community:
A transactions and use tax would have a medium to low impact on residents. It would apply only to taxable purchases and not to mortgage, other debt payments, utilities, services, medicine and most grocery purchases, which make up the majority of resident spending. Individuals purchasing a vehicle that is registered in Gilroy would pay the increased tax, regardless of whether the vehicle was purchased in Gilroy or another city.

ELECTION PROCEDURES

Submission of Ballot Arguments
As part of the California Elections Code, Section 9282, the City Council may authorize any member(s) of the City Council to submit an argument in favor of the City's ballot measure for inclusion in the Voters Sample Ballot. The argument would be capped at 300 words in length. Arguments for or against the measure must be submitted to the Santa Clara County Registrar of Voters (ROV) by Friday, August 9, 2024. Arguments may not be signed by more than five (5) persons.

Preparation of an Impartial Analysis
As part of the California Elections Code, Section 9280, the City Council may direct the City Clerk to transmit a copy of the measure to the City Attorney for the purposes of preparing an impartial analysis. If directed, this impartial analysis would be included in the Voters Sample Ballot that is sent to registered voters in the general election. The impartial analysis of the measure would discuss the effect and operation of the measure. Any such impartial analysis must include a statement indicating that the measure was placed on the ballot by the governing body of the City since it would be

initiated by the City. The Impartial Analysis of the measure may not to exceed 500 words in length, and must be transmitted to the ROV by Tuesday, August 20, 2024.

Rebuttal Arguments
As part of the California Elections Code, Section 9285, the City Council may authorize the City Council or any member(s) of the City Council to submit a rebuttal argument in favor of the City measure for inclusion in the Voters Sample Ballot. Any arguments filed against the measure would be transmitted to the City, and the authorized Council or member(s) of Council for rebutting the argument shall have up to 250 words in rebuttal that would be published.

Roles and Limitations During Ballot Measure Campaign Period
The City can provide educational materials to the public, informing them about the Measure. However, the City must refrain from spending any staff time, money or effort advocating the ballot measure's passage. Council members and staff can work on the campaign on their own time and at their own expense, provided it is clear that they are doing so on their own time rather than with City resources.

DISCUSSION OF RECOMMENDATIONS
Should Council determine to proceed with the proposed ballot measure, there are a few decisions that Council will need to make that would be incorporated into the resolution and are so identified in the attached draft resolution. Staff has drafted the resolution including the following direction from Council, which may be modified by the Council before adoption in case one, more, or all of the direction is not desired to be issued by Council:

- Council authorize the City Council to submit a ballot argument in favor of the measure to the ROV for inclusion in the Voters Sample Ballot;
- Council direction to the City Clerk to send to the City Attorney the measure for an impartial analysis to be created and transmitted to the ROV for inclusion in the Voters Sample Ballot; and
- Council authorize the City Council to submit a rebuttal argument in favor of the measure to the ROV for inclusion in the Voters Sample Ballot.

ALTERNATIVES

The City Council may amend or reject the resolution calling for the municipal election and the proposed ballot language. This is not recommended.

FISCAL IMPACT/FUNDING SOURCE

The Registrar of Voters estimates that the proposed public safety transactions and use tax measure will cost $81,290 to be placed on the November 5, 2024 ballot. The final

amount will vary depending upon the number of other measures placed on the ballot for the November election.

Should the measure pass, there will be some implementation costs with the State of California for the initial one-time set-up and ongoing administration. The set-up costs won't be known until the measure passes and a request to contract with the State is submitted. The ongoing administrative cost is estimated to be about 1.75% of the revenue and will be deducted from the revenue received quarterly.

Based on the current estimates, the additional 0.25% tax rate would generate between $4.1 million and $4.7 million in annual sales tax revenue. Staff utilizes a $4.5 million estimate for this report, the allocation, and the ballot measure. The amount will vary each year based on the value of transactions subject to the proposed tax that occur each year. This amount collected would be used in addition to the Fiscal Year 2025 General Fund appropriations for police and fire, $32.23 million and $14.63 million respectively, a total of $46.86 million.

PUBLIC OUTREACH

Public outreach has yet to be conducted for this item aside from the publicly posted agenda for this meeting and discussion at the April 8, 2024, City Council meeting. There are limitations on what the City can do regarding public outreach for the ballot measure if approved.

If Council approves placing the ballot measure in the upcoming election, staff will conduct modest educational outreach to the public within the City's legal constraints.

NEXT STEPS

If the City Council approves this item, staff will place the approved language on the November 5, 2024 general election ballot. Additional steps, including the City Attorney's impartial analysis and the City's arguments for the ballot measure, would then be undertaken shortly after Council approval of any ballot measure.

Attachments:

1. Resolution Calling for the Election.
2. Exhibit A: Draft Public Safety Special Transactions and Use Tax Ordinance.
3. Draft Public Safety Special Transactions and Use Tax Implementation Plan.
4. April 8, 2024 Council Meeting Public Safety Tax Staff Report.

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY CALLING AND GIVING NOTICE OF, ON ITS OWN MOTION, THE SUBMISSION TO THE ELECTORS OF THE CITY OF GILROY AT A SPECIAL MUNICIPAL ELECTION, TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION ON NOVEMBER 5, 2024, A BALLOT MEASURE PROPOSAL TO ADD ARTICLE V TO CHAPTER 22 OF THE GILROY CITY CODE TO IMPOSE A PUBLIC SAFETY SPECIAL TRANSACTIONS AND USE TAX

WHEREAS, a General election on Tuesday, November 5, 2024, has been called by Resolution No. 2024-21, adopted on Monday, May 20, 2024; and

WHEREAS, Revenue and Taxation Code Section 7285.91 authorizes the City, subject to approval by a two-thirds vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof; and

WHEREAS, the City Council of the City of Gilroy desires to submit to the voters a proposed special transactions and use tax dedicated to fund public safety services and public safety infrastructure, and to place the measure on the ballot for the next General Election on November 5, 2024; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed tax measure to the voters.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gilroy that:

Section 1. A Special Municipal Election is hereby called and ordered to be held in the City of Gilroy on November 5, 2024 to vote on a ballot measure to add Article V, Sections 22.33 through and including 22.48 to the Gilroy City Code to levy a 0.25% special transactions and use tax dedicated and restricted to raise revenue for and fund public safety (police, fire, and ambulance) services and public safety infrastructure, which shall be deemed ratified, pursuant to Government Code Section 34459, if a two-thirds majority of the electors voting on the measure vote to approve the measure. The full text of the proposed article is attached as Exhibit A and incorporated herein by reference in this Resolution.

Section 2. The ballot measure will be placed on the ballot for the November 5, 2024 election which shall be substantially in the following form:

MEASURE_____

Public Safety Special Transactions and Use Tax

To generate funding that cannot be seized by the State, but stays in Gilroy and is dedicated to public safety (police, fire and ambulance) services and public safety infrastructure projects, shall Gilroy enact a quarter-cent transactions and use tax; and include a citizen oversight committee and annual audits for the tax?	**YES**
	NO

Section 3. That the vote requirement for the measure to pass is a two-thirds vote of the qualified voters of the city voting in an election on the issue pursuant to Revenue and Taxation Code Section 7285.91.

Section 4. The City Council hereby requests the Board of Supervisors of the County of Santa Clara, California to permit the Registrar of Voters of Santa Clara County to render to the City of Gilroy such services as the City Clerk of the City of Gilroy may request relating to the conduct of the above-described Special Municipal Election with respect to the following matters:

> Coordination of election precincts, polling places, voting booths, voting systems and election officers; printing and mailing of voter pamphlets; preparation of the tabulation of the results of votes cast and all other services necessary to conduct an election.

Section 5. The City Council hereby requests, consents to, and orders that the Registrar of Voters of the County of Santa Clara consolidate the Special Municipal Election called and ordered to be held on November 5, 2024 with any other election that may be held on that date.

Section 6. The City Council hereby authorized the Board of Supervisors of Santa Clara County, California to canvass the returns of the Special Municipal Election.

Section 7. The City Council hereby directs the City Clerk to reimburse the County of Santa Clara in full for any of the above-mentioned services which may be performed by the Registrar of Voters, upon presentation of a bill to the City, with funds already appropriated to the City Clerk for election purposes.

Section 8. The City Council hereby directs the City Clerk to take all actions necessary to facilitate the Special Municipal Election in the time frame specified herein and comply with provisions of the Elections Code of the State of California, City Charter, Ordinances, Resolutions and Policies regarding the conduct of the Special Municipal Election.

Section 9. Pursuant to Section 12111 of the California Elections Code, the City Council hereby directs the City Clerk to: (a) cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the Gilroy Dispatch, a newspaper of general circulation within the City of Gilroy; (b) consolidate the Notice of Measure to be Voted with the Notice of Election into a single notice; (c) cause copies of the full text of the proposed measure set forth in the attached Exhibit A to be printed in the Voter Information Portion of the Sample Ballot; (d) cause copies of the Sample Ballot to be mailed to each of the qualified electors of the City of Gilroy; and (e) do all other things required by law to submit the specified measure above to the electors of the City of Gilroy at the Special Municipal Election, including causing the full text of the proposed measure to be made available in the Office of the City Clerk at no cost and posted on the City Clerk's website.

Section 10. Pursuant to Sections 9282 and 9285 of the California Elections Code, the City Council hereby approves the submittal of direct arguments for and against the ballot measure, if any, [and authorizes the City Council or any member or members of the Council to author and submit a ballot measure argument in favor of the ballot measure] [but determines that rebuttal arguments will not be allowed] OR [and approves the submittal of rebuttal arguments in response to arguments for and against the ballot measure and authorizes the City Council or any member or members of the City Council to author and submit a rebuttal, if any.]

Section 11. The City Council hereby directs the City Clerk to transmit a copy of the measure qualifying for placement on the ballot to the City Attorney for preparation of an impartial analysis.

Section 12. The City Council hereby acknowledges that the consolidated election will be held and conducted in the manner prescribed in California Elections Code Section 10418.

Section 13. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Gilroy at a regular meeting duly held on the 17th day of June, 2024 by the following roll call vote:

AYES:	**COUNCIL MEMBERS:**
NOES:	**COUNCIL MEMBERS:**
ABSTAIN:	**COUNCIL MEMBERS:**
ABSENT:	**COUNCIL MEMBERS:**

APPROVED:

_____
Marie Blankley, Mayor

ATTEST:

_____
Beth Minor, Interim City Clerk

EXHIBIT A

ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE PEOPLE OF THE CITY OF GILROY ADDING ARTICLE V, SECTIONS 22.33 THROUGH AND INCLUDING 22.48 TO CHAPTER 22 OF THE GILROY CITY CODE IMPOSING A PUBLIC SAFETY SPECIAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9 and 7285.91, the City of Gilroy ("City") is authorized to levy a transactions and use tax for specific and special purposes, subject to a two-thirds voter approval; and

WHEREAS, the People of the City desire to levy a transactions and use tax for the special purpose of raising revenues and funding public safety (police, fire, and ambulance) services and public safety infrastructure, at a rate of 0.25%, which is equivalent to $0.01 for every $4.00 spent; and

WHEREAS, if approved by the City's voters, this transactions and use tax ordinance will be incorporated into Chapter 22 of the Gilroy City Code.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF GILROY DO HEREBY ORDAIN AS FOLLOWS:

SECTION I

That Article V, Sections 22.33 through 22.48 shall be added to Chapter 22 of the Gilroy City Code to read as follows:

Article V
Public Safety Special Transactions and Use Tax

22.33 Title.
This article shall be known as the "Public Safety Special Transactions and Use Tax." This ordinance shall be applicable in the incorporated territory of the City.

22.34 Definitions.
As used in this chapter, "City" means the City of Gilroy and "tax" means the transactions and use taxes imposed under the provisions of this chapter; "tax revenue" and "tax revenues" mean all proceeds of the tax received by the City from the California Department of Tax and Fee Administration.

22.35 Operative date.
"Operative date" means the first day that the tax is imposed and collected. The operative date shall be April 1, 2025, unless a later operative date becomes effective under the provisions of Section 22.37.

22.36 Purpose.

The ordinance codified in this chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted 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 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be effective if a two-thirds vote of the qualified voters of the city voting in an election on the issue 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 therefor that can be administered and collected by the California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration 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 the ordinance codified in this chapter.

22.37 Contract with State.
Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration 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.

22.38 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 0.25 percent (one-quarter of one percent) 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 the ordinance codified in this chapter.

22.39 Place of sale.
For the purposes of the ordinance codified in this chapter, 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 California Department of Tax and Fee Administration.

22.40 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 the ordinance codified in this chapter for storage, use or other consumption in said territory at the rate of 0.25 percent (one-quarter of one percent) 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.

22.41 Adoption of provisions of State law.
Except as otherwise provided in this chapter 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 chapter as though fully set forth herein.

22.42 Limitations on adoption of State law and collection of use taxes.

(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 in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code. In addition, 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 California Department of Tax and Fee Administration, State Treasury, or the Constitution of the State of California;
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 California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of the ordinance codified in this chapter.
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:
    i. 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

ii. 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.

(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.

22.43 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 chapter.

22.44 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 section, delivery to a point outside the City shall be satisfied:
    i. 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
    ii. 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 the ordinance codified in this chapter.

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 the ordinance codified in this chapter.
5. For the purposes of subsections (3) and (4) of this subsection (B), 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 chapter, 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 the ordinance codified in this chapter.
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 the ordinance codified in this chapter.
5. For the purposes of subsections (3) and (4) of this subsection (C), 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 subsection (7) of this subsection (C), 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 chapter 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.

22.45 Permissible uses: Implementation Plan.

(a) The revenues of the tax shall only be used to fund the following uses and purposes. Funding with tax revenues of all other uses and purposes, except as provided in subsections (c) through (e) of this section, is prohibited.

1. Law Enforcement, Police and Public Safety.
    i. Law enforcement and police patrol services;
    ii. Police traffic safety and enforcement services;
    iii. Gang enforcement, school resource services, and violence reduction;
    iv. Police support services, including equipment and the financing thereof;
    v. Mental health response teams, services and resources.
2. Firefighting, Paramedics, Wildfire Risk Reduction and Public Safety.
    i. Maintain firefighter and paramedic staffing levels to maintain rapid 9-1-1 emergency response times;
    ii. Hire additional firefighters and paramedics to staff fire stations;
    iii. Establishment of additional paramedic units within the Fire Department, including advanced life support paramedic teams;
    iv. Purchase of specialized equipment for Fire Department use and the financing thereof;
    v. Programs and services to reduce wildfire risk, including early fire alerts, evacuation planning, defensible space inspections and vegetation management;
    vi. Mental health response teams, services and resources.
3. Public Safety Infrastructure.
    i. Maintain, enhance, construct, and/or relocate fire and/or police stations and facilities (including, but not limited to, land acquisition, facilities design, and use of temporary facilities) and the financing thereof.

(b) The Council, by resolution, shall approve, and may from time to time amend, a transaction and use tax implementation plan which shall outline the allocation percentages between police, fire and public safety infrastructure appropriations to which the tax revenues will be applied.

(c) The tax revenues shall be used to enhance police and fire uses and purposes as outlined in subsection (a) and detailed in the transactions and use tax implementation plan. Funding of the implementation plan may not be below the

actual revenues received from the tax nor shall tax revenues be used to replace previously budgeted funds unless approved by the City Council based on a finding of fiscal crisis or catastrophic disaster. Tax revenues will not be used to supplant the general fund obligations to fund baseline services based upon population and economic conditions, except as provided in subsection (d) below.

(d) For the duration of the tax, annual funding of the Police Department, Fire Department and public safety programs' purposes may not be a lower amount of City general fund expenditures than was funded under the City's 2024-2025 fiscal year general fund budget, as adopted on June 5, 2023, unless a lower level of funding is first approved by the affirmative vote of a 2/3 majority of Council members.

(e) The Council, by resolution, shall establish a seven member Citizen Oversight Committee to annually review expenditures and appropriations of the tax revenues to ensure that all such revenues are spent or appropriated for the purposes and uses set forth in subsection (a), in accordance with the approved implementation plan as described in subsection (b), and, as specifically authorized, in subsections (c) and (d). Each member of the Council shall appoint one member of the Committee who shall have a term coinciding with the term of the appointing Council member. Each Committee member shall be a resident of the City at the time of appointment and shall remain a resident of the City while serving on the Committee. The Mayor shall appoint the chairperson of the Committee subject to the approval of the majority of the Council. The Committee shall receive the assistance of City staff and shall:

1. Issue an annual public report on the expenditures and appropriations of the tax revenues;
2. Make recommendations for the City Council to consider regarding the implementation plan; and
3. Undertake such additional duties as the Council may designate not inconsistent with the purposes identified in this chapter.

22.46 Amendments.

All amendments subsequent to the effective date of the ordinance codified in this chapter 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 chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

22.47 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 chapter, 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.

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

SECTION II

This ordinance, following its adoption by at least five (5) affirmative votes of the Council and its publication, shall become effective upon the approval of the tax imposed hereunder by two-thirds of the voters of the City voting thereon at an election called for that purpose. The "operative date" of the tax imposed hereunder shall be as provided in section 22.35.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GILROY this X day of MONTH, 2024 by the following vote:

AYES:	**COUNCIL MEMBERS:**
NOES:	**COUNCIL MEMBERS:**
ABSTAIN:	**COUNCIL MEMBERS:**
ABSENT:	**COUNCIL MEMBERS:**

APPROVED:

_____
Marie Blankley, Mayor

ATTEST:

_____
Beth Minor, Interim City Clerk

City of Gilroy
Public Safety Special Transactions and Use Tax Implementation Plan

DRAFT

Adopted: December 9, 2024

Table of Contents

Contents

Introduction....3
Background....3
Administration, Oversight, and Implementation....3
Term of Plan....3
Restrictions on Use of Funds....3
Citizens' Oversight....4
Fiscal Accountability....4
Amendment of the Implementation Plan....4
Spending Priorities/Proposed Use of Funds....4

DRAFT

Introduction

On November 5, 2024, the voters of the City of Gilroy ("City") approved a one-quarter cent sales tax to supplement funding for public safety services in the City. The tax is codified as Gilroy City Code ("GCC") Chapter 22, Article V, titled “Public Safety Special Transactions and Use Tax” (“Public Safety Tax”). As part of the voter-approved ballot measure, and pursuant to GCC section 22.45, “Permissible uses: Implementation Plan,” the City is required to prepare and establish an Implementation Plan for the expenditure of tax proceeds. This Implementation Plan provides a background on the Public Safety Tax and guidance for the spending of tax proceeds as authorized by the voters. This Implementation Plan follows and advances the purpose for the Public Safety Tax by only funding expenditures related to public safety services.

Background

On November 5, 2024, the voters of the City approved the Public Safety Tax as a special tax of the City. The ballot measure was approved by more than two-thirds of City voters. The Public Safety Tax imposed a one-quarter sales tax upon all retailers in the City for the sale of all tangible personal property sold at retail in the City. This tax was designed to supplement public safety funding.

Administration, Oversight, and Implementation

Term of Plan

This Implementation Plan will continue in force for the duration of the Public Safety Tax levied within the City, starting in April 2025, and continuing in perpetuity unless repealed by the voters. The Implementation Plan as written in this first edition will consist of a broad allocation by percentage between the three categories of funding, Infrastructure, Police and Fire expenditures. As experience is gathered using the Public Safety Sales Tax proceeds and ongoing costs are funded by the proceeds, the plan may be modified to be of varying levels of specificity. Each edition of the plan as amended will then be in effect until the next amendment is adopted by the City Council.

Restrictions on Use of Funds

Pursuant to GCC section 22.45, all proceeds of the Public Safety Tax shall be accounted for and designated for use by the City only for the public safety services set forth in the GCC subsection 22.45(a) and this Implementation Plan. This Implementation Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety services and infrastructure. The Citizen’s Oversight Committee for the Public Safety Tax may consider and render recommendations for amendments to this Implementation Plan, but the Implementation Plan may only be amended by the City Council at its discretion, within the confines of the Public Safety Tax permissible uses.

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No revenues collected pursuant to the Public Safety Tax may be used to replace previous General Fund expenditures on Police and Fire department operating expenses at budgeted levels for Fiscal Year 2024-25 as adopted on June 5, 2023. The General Fund amounts adopted for Fiscal Year 2025 for the two departments are detailed below:

Police	$32,233,821
Fire	$14,628,833
Total	**$46,862,654**

It is the intent of the voters that revenues collected under the Public Safety Tax supplement, rather than supplant, existing City expenditures for public safety. There is an allowance for certain exceptions to this, as detailed in the ordinance.

Citizens' Oversight

GCC subsection 22.45(e) established a Citizens' Oversight Committee to monitor the expenditures of revenue collected pursuant to the Public Safety Tax and report to the people and the City Council. Members of the Citizens' Oversight Committee are to be appointed by the City Council. The Committee consists of seven members. The Citizens' Oversight Committee members cannot be current City employees, officials, contractors, or vendors of the City. Past employees, officials, or vendors shall be eligible to serve on the Committee, if there are no conflicts of interest as determined by the City Attorney. The Citizens' Oversight Committee is charged with reviewing expenditures of revenue collected pursuant to the Public Safety Tax only to determine whether such funds are expended for the purposes specified in this Implementation Plan and issuing reports on their findings to the City Council and the public at least annually. Committee members may also review the annual financial or performance audits performed by an independent auditor.

To preserve the integrity and independence of the oversight process, Committee members will not play a formal role in contracting, project management, or any other aspect of the public safety measure funding.

The Committee is not charged with decision-making on spending priorities, schedules, project details, funding source decisions (e.g., leveraged funds, developer fees, etc.), financing plans, or tax rate assumptions. The Committee shall serve in an advisory-only role to the City Council and City Administrator and may therefore make recommendations about amendments to this implementation plan, but shall not have a role in approval of any amendments.

Fiscal Accountability

The amount generated by the Public Safety Tax and how it is used shall be included in the annual audit of the City's financial operations by an independent certified public accountant.

DRAFT

Amendment of the Implementation Plan

This Implementation Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety services as outlined in the Public Safety Tax measure.

Spending Priorities/Proposed Use of Funds

For the first budget cycle (Fiscal Years 2025-26 and 2026-27), the Public Safety Tax revenues shall be appropriated by the following percentages, for use in determining appropriations in the two fiscal years' budgets, all terms having the meaning as described in the Public Safety Tax:

- Infrastructure: Use of 25% of total proceeds;
- Police: Use of 40% of total proceeds; and
- Fire: Use of 35% of total proceeds.

DRAFT

City of Gilroy

STAFF REPORT

Agenda Item Title:	**Consideration of a Potential Public Safety Sales Tax Ballot Measure for the November 5, 2024 Election Ballot**
Meeting Date:	April 8, 2024
From:	Jimmy Forbis, City Administrator
Department:	Administration
Submitted By:	Bryce Atkins, Assistant to the City Administrator
Prepared By:	Bryce Atkins, Assistant to the City Administrator

STRATEGIC PLAN GOALS	Develop a Financially Resilient Organization Ensure Neighborhood Equity from City Services Maintain and Improve City Infrastructure

RECOMMENDATION

Council direction to develop a public safety sales tax ballot measure and return the proposed ballot measure to the City Council for consideration and final approval for the 2024 General Election.

BACKGROUND

Since the 2009 recession, the City's staffing levels have not returned to pre-recession levels, and to compound the issue, additional positions had to be eliminated during the COVID-19 closure and financial impact. After the recession but before the pandemic, City staff conducted several comprehensive studies, some regarding staffing specifically in the Police Department and our standards of coverage plan for our Fire Department, which included staffing as part of its recommendations. Both efforts revealed a need for additional public safety staffing and infrastructure.

Public Safety (Police and Fire services combined) is not just one of the largest expenditures for cities, including the City of Gilroy, but also a crucial pillar of our community. The City's public safety services are expenditures in the City's General Fund, which receives its funds primarily from taxes, and fees to a lesser amount. The General Fund is discretionary in nature, meaning the City can use these funds for any

City purpose, unlike special revenues or other funding sources that have restrictions. Because of this discretionary nature, it is the fund that has the largest demands placed upon it, and often needs of multiple departments and programs compete for the same General Fund dollars. This scarcity of resources compared to needs often impacts public safety as the largest service category of the City and are also the services that require the greatest amount of discretionary resources to provide.

ANALYSIS

Current and Historical Public Safety Funding

Public Safety concerns are an overarching priority for most community members in our City. Sustaining the City's public safety services has historically required the most significant amount of the General Fund each year. Public safety accounts for approximately 64% (or $46.86 million) of the $72.76 million adopted budget for the upcoming Fiscal Year 2025 (FY25). This share has decreased slightly compared to 10 years ago when, in FY15, public safety represented 66% ($28.45 million out of $43.04 million) of the General Fund budgeted expenditures that fiscal year. Even though the relative share decreased slightly, the total General Funds spent on public safety increased by 65% over the ten years.

Despite the escalating costs associated with public safety services, there exists a parallel rise in expectations, compelling our public safety departments to strive for an enhanced service delivery standard to meet our residents' evolving needs. While it's possible to reallocate funds from other programs or departments to bolster public safety resources, there's a point where diminishing returns set in. When different departments face budget reductions, it inevitably impacts service levels, and severe reductions can even lead to eliminating entire programs and departments, ultimately diminishing the overall services provided to city residents.

Current and Future Public Safety Needs

Each of the City’s public safety departments conducted consultant-led comprehensive staffing studies indicating the need for additional staffing to continue providing the enhanced level of service our community has grown accustomed to. Below are tables that identify the types of positions needed for each department, along with a description of the need. The totals show the number of positions for each type recommended by the study, adjusted based on a per capita rate and increased based on the 2023 California Department of Finance population estimate for 2023. It then identifies the authorized number of positions within that type and the number needed to meet the recommended staffing levels.

Police

Position Type	Recommended Staffing Level[1]	FY25 Authorized Staffing Level[2]	Additional Positions Needed
Corporal	9	8	1
Police Officer	51	46	5
CSO	5	4	1
Public Safety Communicators	20	14	6
Records	9	7	2

Overall, the Police Department still needs six sworn positions, one field support position, and eight specialized support positions, based on the study recommendations. While adjusted for population, further positions may become necessary to meet the service demands imposed by state legislation, current analysis, and anticipated future demands that will be required to align with future local and state needs.

Fire

The Fire Department has recently been subject to significant overtime due to long-term leaves and coverage needs. Additional positions are needed to help provide enough staffing capacity to fill shifts, including for the Santa Teresa Fire District (STR District). Additional resources are required to operate the fourth fire station in the STR District. The Standards of Coverage plan also identifies that Gilroy is at a stage where it should be planning, if not implementing, the operation of a fifth fire company. To fully staff the STR District and the three existing stations, 45 deployable firefighters/paramedics (FFPs) are needed. Below is a table that shows the current authorized staffing positions, the positions required to staff two additional fire companies listed beside them, and the number of additional positions needed to facilitate the deployment.

Position	Currently Authorized	Five Fire Company Deployment Staffing Required	Required Relief for Five Fire Companies	Total Positions Needed	Additional Positions Needed
Fire Captain	10	15	0	15	5
Engineer	9	15	0	15	6
Firefighter/ Paramedic	21	15	12	27	6

[1] Recommended staffing levels were derived by formulating a per capita position ratio using the California Department of Finance population estimates for the year the study was completed (53,325 for patrol and 54,849 for all other unit studies, then multiplying by the estimate for 2023, 60,078).
[2] Recommended to authorized staffing level comparisons are categories of positions for communications and records, due to studies having defined role recommendations (i.e. training, quality assurance) whereas the authorized positions do not have those specific designations.

Position	Currently Authorized	Five Fire Company Deployment Staffing Required	Required Relief for Five Fire Companies	Total Positions Needed	Additional Positions Needed
Total Positions	40	45	12	57	17

To deploy the STR District station company and the future fifth fire station company, the Fire Department would need an additional 17 personnel, consisting of two entire fire companies. Additionally, the Fire Department will need infrastructure costs to construct the stations and funding for seismic retrofits to the existing Chestnut and Las Animas stations to better withstand earthquakes.

Vehicles and Equipment – Police and Fire

In addition to personnel, individual and corporate equipment will be required. This ranges from the personal equipment issued to each police officer and firefighter, as well as other equipment used that is shared, such as vehicles, apparatus, computers, and communications equipment, as well as specialized departmental equipment used in carrying out the duties of each. These will also require additional ongoing costs for repairs and replacement in addition to the initial purchase cost.

Potential Dedicated Funding Solution – Public Safety Sales Tax

The challenge with the competition for General Fund appropriations to meet the needs identified above is that increasing positions and ongoing costs are complex and require either other departments not receiving their needed funding for maintaining services or facing potential cuts to provide more essential services.

A separate funding source dedicated to public safety would help meet the currently identified financial needs and prevent the requirement of capping or reducing appropriations for other departments, such as parks, streets, and recreation, among others. Based on the revenue streams available to the City and their impact on Gilroy residents, a dedicated sales tax is recommended. Sales tax revenues are the largest revenue stream for the City and can generate more revenue for public safety than other funding sources.

Additionally, because our sales tax revenue has high capture, meaning that we receive a significant portion of it paid by non-residents when they spend money at our retailers, the financial impact is born, in a significant part, by those who do not live here. This is less impactful than a property-based fee, where the full revenue-generating burden would be placed fully and wholly on residents. By pursuing a sales tax, it lessens the burden.

State law limits the rate of sales tax that can be collected in addition to the State sales tax rate, which the limit is 2% above the state rate. This limit applies to all collections within a County. At this time, the local rate is 9.125%, meaning there is already 1.875% in addition to the 7.25% of the state rate being collected by other agencies that apply to the Gilroy limit but were not imposed and are not to the direct benefit of the City of Gilroy. Of the 1.875% local rate already in place, 0.125% has a special legislative

exemption and, thus, is not counted towards the 2.0% limit. This means the potential sales tax measure would be limited to 0.25% to stay within the limit.

Amount Potentially Generated by a 0.25% Public Safety Sales Tax
Based on the current estimates, the additional 0.25% tax rate would generate between $4.1 million and $4.7 million in annual sales tax revenue. Staff utilizes a $4.5 million estimate for this report, the allocation, and the ballot measure.

Proposed Uses and Conditions of a Public Safety Sales Tax
Staff is proposing some structure to the sales tax measure. These include the below considerations.

Oversight Committee
The proposal would include a Citizen's Oversight Committee to review the collection and use of the dedicated sales tax revenues and ensure that the funding is used in accordance with the restrictions proposed on the ballot measure. The Oversight Committee may also recommend changes to the split in funding allocation to the City Council, as described immediately below.

Allocation of Funding
The proposal would establish a threefold allocation of funding to be received, with an initial allocation split as identified below:

- 25% Infrastructure (estimated $1.1 million per year) - This would fund future fire and police stations, such as the Santa Teresa Fire District station or the Fifth Fire Station, as well as seismic and other retrofits for existing facilities, such as the Chestnut and Las Animas fire stations.
- 40% Police (estimated $1.8 million per year) - this would be an allocation specific to the Police Department and would fund needs across all functions of the Department. It is important to note that the allocation does not necessarily allow for the increase in School Resource Officers (SROs), as such positions, roles, and authorities are governed by the California Education Code and must be requested by the associated school district of the school(s) being served by such a position before the City can take it up. However, all other known positions are eligible to be filled by utilizing these funds.
- 35% Fire (estimated $1.6 million per year) would include positions, services, and supplies, similar to the Police description above.

Alternatively, there is the option to allocate the funding more in alignment with the General Fund split of public safety funding and reducing the infrastructure share.

- 20% Infrastructure (estimated $0.9 million per year).
- 55% Police (estimated $2.5 million per year)
- 25% Fire (estimated $1.1 million per year).

Bonding Against Infrastructure Portion to Start Construction Projects

For the infrastructure allocation, the annual amount would require significant time to build the funds needed for the large-scale infrastructure. We have researched with the City's financial advisor, NHA, who has reported that we can bond against the special sales tax revenue for infrastructure. This would allow for the rapid availability of funding for construction instead of having to wait ten or more years to accumulate and then implement a significant construction project with these funds. Personal equipment, general and departmental equipment, and apparatus/vehicles would come from the department amounts, not from the infrastructure allocation.

Public Safety General Fund Baseline

The proposed public safety sales tax is to augment General Fund allocations toward staff, supplies, and services relating to public safety. To effectuate this intent, it is proposed that a baseline amount of the General Fund's contribution to public safety be established as part of this measure. This preserves the core of public safety funding while adding the revenue from the dedicated sales tax to enhance public safety service to the community. As the process moves towards a recommendation to place the sales tax measure on the ballot, staff will recommend that the Council consider the amount of the baseline.

Timeline

Below is a potential timeline, assuming approval of the ballot measure, and also adoption by the voters in Gilroy on November 5, 2023.

Ballot Measure Step/Process	Potential Timeline
Outreach commences on the potential ballot measure	Tuesday, April 9, 2024
Community Meeting	Monday, June 10, 2024
Recommendation for approval to place a public safety dedicated sales tax to the November 5, 2024 ballot	Monday, July 29, 2024
Backup date for approval to place the proposed sales tax on the ballot	Monday, August 5, 2024
Deadline to Submit Resolution to Registrar of Voters for Ballot Measure Argument	Friday, August 9, 2024
Primary Arguments Due	Tuesday, August 13, 2024
Last Day to Amend the Measure	Wednesday, August 14, 2024
Deadline for Rebuttal Arguments and Impartial Analyses	Tuesday, August 20, 2024
Election Day	Tuesday, November 5, 2024
Certification of Election Results	Thursday, December 5, 2024
Finalize and execute two agreements with the California Department of Tax and Fee Administration (CDTFA): one for	Commences upon certification, and proceeds at the pace of discussions between City and CDTFA

Ballot Measure Step/Process	Potential Timeline
preparation to administer and operate the tax and the other for ongoing state administration of the tax	
Earliest operative date for the Public Safety Sales Tax	April 1, 2025 (first day of first quarter after 110 days have passed since adoption)

ALTERNATIVES

The Council may direct staff to refrain from proceeding with the proposed public safety sales tax measure or modify the proposed measure's nature. Staff does not recommend ceasing the work on the measure, as it is the best potential source of funding for augmenting current police and fire services and making it possible to expand to meet future public safety service needs. Although finer details may be modified as the process of forming the tax measure proceeds, staff is recommending the essential nature of the measure as provided above be maintained for this effort.

FISCAL IMPACT/FUNDING SOURCE

The cost of a sales tax ballot measure, depending on its success, is approximately $100,000 to $300,000 from General Fund reserves.

City staff estimates that the proposed public safety sales tax measure will cost approximately $100,000 to place on the November 5, 2024 ballot. This estimate is derived from the costs incurred for placing the previous charter amendment measure on the ballot. Final amounts will vary depending upon the number of other measures placed on the ballot for the November election.

Additionally, the CDTFA will have preparatory (one-time) and administrative (ongoing) costs associated with the local sales and transactions and use tax. The preparatory costs include one-time staffing and processing costs associated with notifying taxpayers in the geographical area. By law, the maximum preparatory cost is capped at $175,000. The ongoing administrative cost is estimated to be about 1.75% of the revenue and will be deducted from the revenue received quarterly.

Staff anticipates additional, smaller costs, such as attorney fees, public postings, and other administrative costs associated with the measure, but detailed estimates are not currently available.

If approved to return with the proposed ballot measure for consideration, a more refined estimate will be provided in July.

PUBLIC OUTREACH

Previous discussions with Council regarding a potential ballot measure have been

discussed associated with fire staffing coverage and considering ways to add firefighter positions. This item was included on the publicly posted agenda for this meeting. Additional outreach will be conducted if direction is received to pursue the development of a public safety sales tax ballot measure.

NEXT STEPS

If the Council directs staff to continue developing the potential ballot measure, staff will return to the July 29, 2024, regular meeting to seek Council approval.