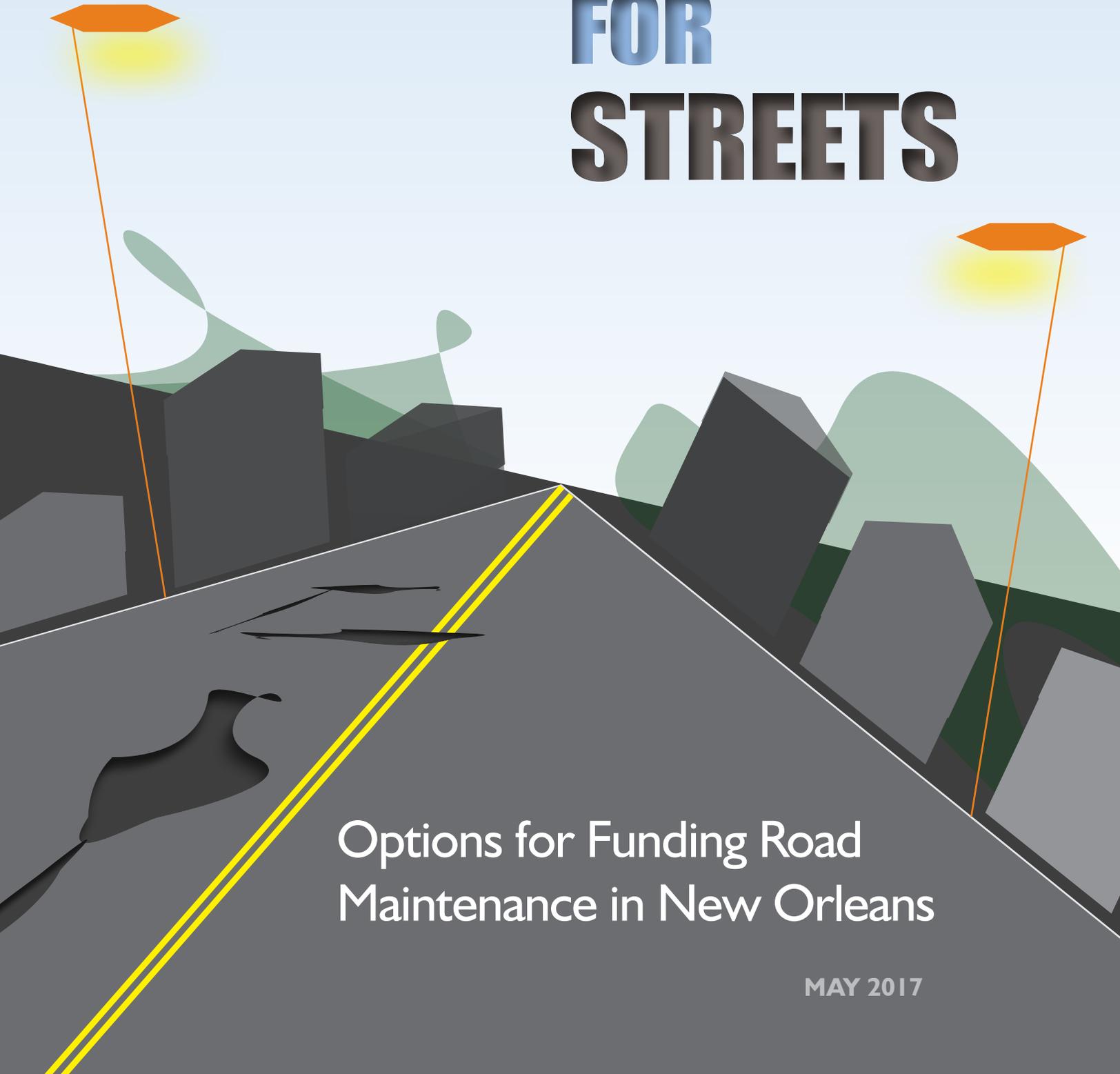




PAYING FOR STREETS



Options for Funding Road
Maintenance in New Orleans

MAY 2017

PAYING FOR STREETS

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PAYING FOR STREETS

OPTIONS FOR FUNDING ROAD MAINTENANCE IN NEW ORLEANS

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EXECUTIVE SUMMARY

A recent pavement condition study (Pavement Assessment) found that 44% of New Orleans' 1,500 miles of streets have either failed or are on the verge of failure. Based on the assessment, the City estimates it would cost at least \$5 billion dollars to fix them. That does not include the \$30 million to \$35 million a year the City estimates it needs to cover preventive maintenance costs.

Still, the situation is not hopeless. The City is poised to receive \$1.5 billion in FEMA funding to repair streets damaged during the Hurricane Katrina disaster. This infusion of federal money provides a unique opportunity to shift to a more effective approach to maintaining the City's streets. To sustain the longer term benefits of this investment, the City must find a way to increase local funding for preventive street maintenance so that all those repaved roads do not deteriorate prematurely.

In this report, BGR catalogues the City's current funding sources dedicated to streets and assesses how well these resources align with the City's needs. The report then examines options to increase street funding. These include redeploying current revenues; increasing existing taxes; and imposing new fees or taxes. Finally, the report makes recommendations to implement a more effective approach to funding street maintenance and repairs.

Because it will take about eight years for the City to work through its list of funded capital street projects, this report focuses primarily on recurring maintenance needs. However, the funding mechanisms it addresses include options that can help the City fund future capital work.

Street Conditions and Repair Costs

Based on a block-by-block evaluation of the City's 1,500 miles of streets, the Pavement Assessment found that nearly two-thirds are in poor condition or worse. This includes 44% that received a grade of very poor/failure, indicating that the pavement is disintegrating and the street is passable only at low speeds. At the other end of the spectrum, just 14% of streets are in good or excellent condition.

Given the poor condition of the City's streets, it is no surprise that the estimated repair costs are staggering. Using data from the Pavement Assessment, the City estimates it would cost approximately \$5 billion to repave or reconstruct all streets that are in poor condition or worse. As noted above, the City estimates it needs an additional \$30 million to \$35 million a year for preventive maintenance.

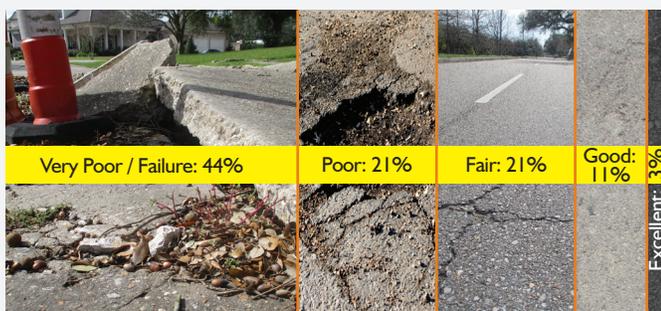
Funding Shortfalls

Capital Repairs. The City has identified about \$1.9 billion in capital funding, including \$1.5 billion from FEMA, \$222 million from City-issued bonds and \$187 million from federal grants. The City plans to spend these one-time revenues by 2025. After that, it will face a shortfall of at least \$3.1 billion for capital repairs. Despite these unmet long-term capital needs, adequate funding exists for the capital repairs the City can reasonably carry out during the near term. This makes annual funding for preventive maintenance the City's most immediate financial need.

Preventive Maintenance. The City has two dedicated funding sources available for preventive street maintenance – a \$2.3 million annual dedication from the state's fuel tax receipts and a 1.9-mill property tax for streets and traffic signals that the City estimates will generate \$6.2 million in 2017. In total, there is about \$8.5 million in annual dedicated funding available for streets.

CHART A: CONDITION OF NEW ORLEANS STREETS

By Percentage of Total Mileage



Source: City of New Orleans Pavement Management Analysis Draft Report, Stantec Consulting Services, August 2016.

Of that amount, the City actually spent an average of just \$3.8 million per year on street maintenance from 2011 to 2016. This falls far short of the \$30 million to \$35 million that the City says it needs. Moreover, there are questions about whether the City is spending all of its dedicated street revenue in accordance with provisions controlling its use. (See page 9 for details.)

BGR has previously taken the position that the City should significantly increase funding for preventive street maintenance. Spending more on maintenance and minor repairs tends to pay for itself, and then some, in savings on major capital repairs. By the City's own estimates, every dollar invested in preventive maintenance can save four or five dollars in repair costs down the road.

Street Funding Options

While there is no question that the City needs more money for streets, this does not necessarily mean it needs more money from the public. The first place the City should look to identify additional funding for streets is existing revenue streams. The City should mine its budget for additional efficiencies that could free up dollars for streets. The general fund includes more than \$400 million in undedicated revenues that the City can spend on any purpose. Yet it allocates none of this discretionary money to fixing streets, which City officials acknowledge is a high priority among citizens.

In this context, the report first considers existing revenues that could be redirected to provide more funding for streets. It then analyzes potential increases in certain revenue streams. Finally, the report evaluates potential new revenue sources for streets.

Redirect Street-Related Fees, Fines and Taxes. The City receives substantial revenue from various sources that have a strong nexus to streets, including traffic camera tickets, parking tickets, parking meters, parking taxes and vehicle sales taxes. The City projects

these street-related revenues will generate a net total of \$52.5 million in 2017, after subtracting collection and enforcement costs. (See table on page 11.) While all of this money has a strong nexus to the street network, the City spends none of it on street maintenance and repair despite the fact that the revenues have grown an average of 6.7% per year since 2009. This growth came amidst a 4.1% average annual increase in the City's general fund.

In a 2008 report on streets, BGR urged the City to explore redirecting some of these street-related revenues to increase funding for street maintenance. This option still deserves strong consideration as a potentially significant source of new money for streets. The \$52.5 million in net street-related revenue is more than five times the \$9.5 million that the City budgeted for street maintenance in 2017. Thus, redirecting a portion of these revenues to preventive maintenance could have a major impact.

Because the City currently uses these revenues for other purposes, budget cuts would likely be necessary to redirect some of the money to streets. One way to avoid or minimize budget cuts is to use 2017 as a baseline year and redirect future growth in net street-related revenues to fixing streets. If the City had taken this approach in 2009 after BGR first suggested it, the City would now have an additional \$21.1 million a year for streets.

Rededicate Local Taxes. In a November 2015 report entitled [*The \\$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?*](#), BGR presented a comprehensive analysis of where local taxes in Orleans Parish are going. The report found that, taking into account capital expenditures, just 3% of the roughly \$1 billion in local tax revenue goes to streets. This pales in comparison to the shares allocated to other purposes, such as promoting tourism, conventions and professional sports (14%) and public transportation (7%). The report also found that while the City is

 **While there is no question that the City needs more money for streets, this does not necessarily mean it needs more money from the public. Policymakers owe it to the public to find a way to deploy existing revenues optimally.**

struggling to meet basic needs, certain tax-recipient entities in the parish have sizable surpluses.

BGR reiterates its key recommendation from *The \$1 Billion Question* by urging the mayor and the local legislative delegation to initiate a comprehensive reassessment of existing tax dedications in Orleans Parish with an eye toward redirecting local taxes to meet basic municipal needs, including streets. Policymakers owe it to the public to find a way to deploy existing tax revenues optimally.

Impose New Taxes and Fees. New Orleans relies almost entirely on property taxes as a local funding source for streets. But because property taxes are based on a property's value, they generally have a weak nexus to street use. A business that generates a high volume of traffic pays the same property taxes as a similarly valued business that generates little traffic. In addition, property tax exemptions shield many properties from taxation, even though some of these properties, such as hospitals and universities, may impose significant burdens on the street network. Given these limitations, the City should explore other options to fund street maintenance. With this in mind, the report analyzes various new taxes, fees and other funding mechanisms that generally have a strong nexus to streets. The options include:

- Transportation Utility Fee (TUF)
- Local fuel tax
- Employment or commuter tax
- Road use charge
- Driver's license fee
- Street maintenance districts

A Transportation Utility Fee and a local fuel tax are among the most suitable options, though they may be difficult to implement.

A Transportation Utility Fee or TUF is a property-based funding mechanism for streets that avoids some of the problems with property taxes. As its name suggests, a TUF treats the street network like a public utility. Property owners or occupants are assessed fees to maintain local streets similar to service charges for utilities. The fees are based on estimates of how many vehicle trips each property generates. This gives

a TUF a much stronger nexus to street usage than a property tax. Also, because a TUF is not a tax, it can apply to properties that are exempt from property taxes. This spreads the cost of maintaining streets over a broader base of users.

A local fuel tax would have an excellent nexus to streets, a broad base of payers and the potential to generate substantial revenue. These characteristics have helped make fuel taxes the primary source of funding for roads at the federal and state levels. The main drawback to a local fuel tax is that it would be difficult to implement, requiring an amendment to the Louisiana constitution to eliminate a prohibition on local fuel taxes. However, a state task force has recommended a major increase in transportation funding to address a backlog of state projects, and it identified a fuel tax increase as one of the most promising options. If the Legislature increases the state fuel tax, it could dedicate a portion to parishes for local streets as it does with the current fuel tax.



By the City's own estimates, every dollar invested in preventive maintenance can save four or five dollars in repair costs down the road.

Conclusion

The deplorable condition of the streets in New Orleans is a clear indication that the City needs to rethink its approach to funding street work and implement a more effective strategy. It has already made progress in this regard. The City has improved coordination between its public works department and the Sewerage & Water Board to avoid tearing up newly repaved streets to repair pipes buried beneath them. The City has also committed to using a pavement management plan that prioritizes repair work based on pavement conditions, predicted rate of deterioration, traffic volume and the cost-effectiveness of various treatments, among other factors. But this progress could be undercut without adequate funding for preventive maintenance. And this is one key area where the City continues to fall short.

The \$9.5 million for street maintenance in the City's 2017 operating budget is less than one-third of the \$30 million to \$35 million that the City itself estimates it needs to ensure streets do not deteriorate prematurely. As the City embarks on a massive road repair project, it is imperative that it find a recurring source of revenue to fully cover preventive maintenance costs for all of those miles of newly repaved streets. Failure to do so would risk squandering the enormous capital investment the City is about to make.

In light of the steady increases in street-related revenues and in its general fund, the City has an obligation to look to existing revenues for street maintenance before seeking new funding sources. In addition, as BGR has emphasized in the past, a parishwide re-appraisal of existing tax dedications and how they align with basic infrastructure funding needs is long overdue. As demonstrated in this report, the necessary resources may already exist to fund street maintenance.

Recommendations

- The City should implement budgeting and accounting procedures to ensure that all revenues dedicated to streets and traffic signals are spent on those purposes.
- The City should identify recurring revenues to provide the \$30 million to \$35 million it needs

each year for preventive street maintenance.

- The City should direct a portion of its existing street-related fees, fines and taxes to streets. At a minimum, future net increases in these revenues should go to streets.
- The mayor and the local legislative delegation should initiate a comprehensive reassessment of existing local tax dedications with an eye toward redirecting taxes to meet basic municipal needs, including streets.
- The City should consider implementing a Transportation Utility Fee to broaden the base of contributors to street funding and better calibrate those contributions to impacts on the street network.
- Any action by the Legislature to raise the state fuel tax should include a portion dedicated to local transportation infrastructure.
- The City Council should pursue a charter change clarifying the authority of, and process for, the City to impose fees and service charges.



INTRODUCTION

New Orleans' street network is a critical component of local infrastructure and the local economy, allowing the movement of people, goods and services. The condition of the City's streets is also an important quality-of-life factor for residents.

However, a recent pavement condition study (Pavement Assessment) found that 44% of the City's 1,500 miles of streets have either failed or are on the verge of failure.¹ Based on the Pavement Assessment, the City estimates it would cost at least \$5 billion dollars to fix them. In addition, the City estimates it needs to spend \$30 million to \$35 million per year on preventive maintenance.

Residents' frustration at having to navigate crumbling streets led to a grassroots movement demanding greater funding for street repairs. In response, the mayor appointed a task force to help identify long-term funding to fix the City's streets.² With repair costs estimated in the billions of dollars, it is a challenging task.

Still, the situation is not hopeless. The City is poised to receive \$1.5 billion in FEMA funding to repair streets damaged during the Hurricane Katrina disaster.³ This infusion of federal money provides a unique opportunity to shift to a more effective approach to maintaining the City's streets. To sustain the longer term benefits of this investment, the City must find a way to increase local funding for preventive street maintenance so that all those miles of newly paved roads do not deteriorate prematurely. From 2011 to 2016, the City spent an average of just \$3.8 million on preventive maintenance, a small fraction of the need.

METHODOLOGY

In preparing this study, BGR reviewed City budgets, financial statements, audits, ordinances and other documents concerning funding for the City's streets. BGR interviewed City officials, members of the mayor's streets task force, officials from other cities and experts in government funding. In addition, BGR reviewed various studies and reports on street funding mechanisms. Previous BGR research also informed the report.

Finding more money for streets will take a careful reassessment of the use of existing resources – and of the way the City approaches street funding.

In this report, BGR catalogues the City's current funding sources dedicated to streets and assesses their sufficiency for meeting the City's needs. It then examines options to increase street funding. These include redeploying current revenues; increasing existing taxes; and imposing new fees or taxes. Finally, the report makes recommendations to implement a more effective approach to funding street maintenance and repairs.

Because it will take about eight years for the City to work through its list of funded capital projects, this report focuses primarily on recurring maintenance needs. However, the funding mechanisms it addresses include options that can help the City fund future capital work.

BACKGROUND

Current Street Conditions

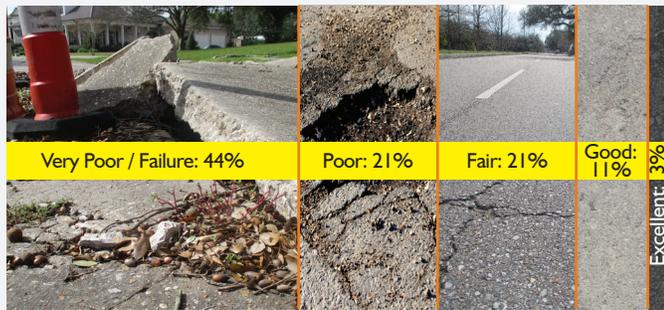
Motorists have long complained about the abysmal state of the City's streets. Until recently, there was no data on just how bad they are. The Pavement Assessment released in August 2016 provided a comprehensive, block-by-block study of the City's 1,500 miles of streets. It found that nearly two-thirds are in poor condition or worse. This includes 44% that received a grade of very poor/failure, indicating that the pavement is disintegrating and the street is passable only at low speeds. At the other end of the spectrum, just 14% of streets are in good or excellent condition.⁴

The Pavement Assessment used data from a specialized vehicle equipped with sensors to measure ride quality and pavement defects. Each block received a score on a 100-point pavement condition index. The average score was 42.7, which is at the low end of the range for streets in poor condition.

The problems extend citywide. Just five of 73 neighborhoods have streets with an average condition of fair, meaning the pavement is relatively smooth with some cracking and potholes.⁵ The remaining neighborhoods have average street conditions of poor or very poor/failure, according to the Pavement Assessment.

CHART A: CONDITION OF NEW ORLEANS STREETS

By Percentage of Total Mileage



Source: City of New Orleans Pavement Management Analysis Draft Report, Stantec Consulting Services, August 2016.

Pavement Assessment estimates that raising the average condition of the City’s streets to fair would require spending \$200 million to \$350 million annually for 20 to 30 years. Assuming the actual figures fell at the midpoints of these ranges, the City would have to spend \$275 million a year for 25 years – a total of \$6.9 billion. It is beyond the scope of this report to determine an appropriate street repair goal and estimate the costs to achieve it. Thus, for the purposes of this report, BGR uses the City’s \$5 billion repair estimate as a baseline figure.

The scenarios in the assessment address only capital repair and reconstruction costs. They do not include the \$30 million to \$35 million a year that the City estimates it needs to spend on preventive maintenance to maximize the lifespan of streets post-repair.⁷ As the next section illustrates, these cost estimates far outstrip the City’s current funding for capital repairs and preventive maintenance.

Repair and Maintenance Costs

The City intends to use the Pavement Assessment to implement a pavement management plan that prioritizes repair work based on pavement conditions, predicted rate of deterioration, traffic volume and the cost-effectiveness of various treatments, among other factors. In a 2008 report on streets, BGR recommended taking such a holistic approach to street maintenance. (See the sidebar on page 8 for an overview of the City’s progress on reform.)

Given the poor condition of the City’s streets, it is no surprise that the estimated repair costs are staggering. Using data from the Pavement Assessment, the City estimates it would cost approximately \$5 billion to repave or reconstruct the 65% of all streets that are in poor condition or worse.⁶ In another scenario, the

Current Funding for Streets

The City receives various local, state and federal revenues dedicated to streets. Street work falls into two categories:

- **Capital repairs:** This work typically entails major repairs, such as repaving or reconstructing sections of streets. The City’s capital budget provides funding for these projects.
- **Preventive maintenance:** This involves minor repairs – such as filling potholes and sealing cracks – that are intended to prolong the lifespan of streets and reduce future capital repair costs. This work is funded through the City’s annual operating budget.

TABLE 1: CITY OF NEW ORLEANS STREET FUNDING SHORTFALLS

Type of work	Revenue needed	Revenue available	Shortfall
Capital repairs	\$5 billion-plus over 15 to 20 years	\$1.9 billion (enough to cover costs through 2025)	Long-term need for \$3.1 billion-plus
Preventive maintenance	\$30 million to \$35 million annually	\$8.5 million per year*	Immediate need for \$21.5 million to \$26.5 million per year

* Includes revenues that the City currently spends on traffic signals and drains.

Sources: City budgets, information provided by the City and “City of New Orleans Pavement Management Analysis Draft Report,” Stantec Consulting Services.

PROGRESS ON STREET MAINTENANCE REFORMS

In a 2008 report entitled *Street Smarts: Managing and Maintaining New Orleans' Road Network*, BGR reviewed the City's approach to street maintenance. The report identified several problems and made recommendations to help the City prolong the life of its streets and make the most of limited resources.

Nine years later, the City has made significant progress on some of the recommendations. However, it has more work to do on one of the most important issues – increasing funding for preventive maintenance. The following is an overview of the report's findings and recommendations, and what the City has done in response.

Fund Preventive Maintenance. The report found that the City has consistently underfunded street maintenance. It noted that timely maintenance is essential to keep streets from deteriorating to the point that they require reconstruction – which is exponentially more costly than maintenance. The report urged the City to explore ways to increase funding for maintenance either by generating new revenue or by redirecting existing revenues, including money from parking and traffic camera tickets.

In 2009, the City rolled forward its property tax for streets and traffic signals by 0.5 mills as the report suggested. This has contributed to a modest increase in dedicated street funding of about \$1.6 annually. The \$9.5 million that the City budgeted for street maintenance in 2017 is roughly triple the amount it spent in 2008. However, it remains well below the \$30 million to \$35 million that the City estimates it needs based on the recent Pavement Assessment.

Improve Coordination. The report called for better coordination between the City's Department of Public Works and the Sewerage & Water Board to avoid wasting resources on fixing streets that will soon be dug up for utility repairs. The report also found that the City's oversight of pavement cuts by utility companies was inadequate to ensure proper repair of the cuts. It recommended increasing excavation fees, which the City had not raised in more than half a century. It also called for imposing penalties for violations of excavation rules.

The City has made substantial progress in the area of coordination. Under a cooperative endeavor agreement between the City and the S&WB, the S&WB's executive director has responsibility for coordinating that agency's utility work with Public Works' street projects.* In addition, Public Works meets monthly with utility companies, such as Entergy and AT&T. The City Council also approved substantial increases in excavation fees and deposits in 2015, increasing them by an average of nearly 700%.** Public Works and the Law Department are now preparing a proposal to impose civil penalties for violating excavation rules.

Establish a Pavement Management System. The report found that the City had an unsophisticated, and at times ad hoc, process for assessing the condition of its streets and prioritizing repairs. BGR recommended that the City implement a pavement management system. Under such a system, a computer program uses data on pavement conditions to calculate repair costs, evaluate appropriate approaches to maintenance, rehabilitation or reconstruction and produce a list of priorities. The goal is to identify the roadwork needed to preserve street quality for the longest time at the lowest cost.

The City has committed to implementing a pavement management system and recently completed the citywide Pavement Assessment to provide baseline data on street conditions.

Use the System to Set Strategic Priorities. To ensure rational prioritization and timely maintenance, and to minimize ad hoc or political decisions, BGR recommended that the City use the pavement management system to produce the baseline priorities for roadwork. City officials told BGR they agree with this approach and, consistent with BGR's recommendations, would authorize Public Works to deviate from the list of priorities to coordinate with utility work. However, the officials said they disagree with a BGR recommendation to require any other significant deviations to align with formalized criteria and receive City Council approval. The officials said that Public Works needs more flexibility to adjust to changing conditions in the field.

* Sewerage and Water Board Cooperative Endeavor Agreement with the City of New Orleans for the Coordination of All Repair, Maintenance, and Construction Projects with City Agencies (R-189-2015), October 2015.

** For example, the deposit to ensure that a utility cut in a finished concrete street is properly repaired increased from \$2.50 per square foot to \$17.50 per square foot, a 700% hike. City of New Orleans Municipal Code, Sec. 146-438.

Funding for Capital Repairs. As noted above, the City says it needs at least \$5 billion for capital street repairs. It has identified about \$1.9 billion in capital funding, including \$1.5 billion from FEMA, \$222 million from City-issued bonds and \$187 million from federal grants.⁸ The City plans to spend these one-time revenues by 2025. After that, it will face a shortfall of at least \$3.1 billion for capital repairs.⁹

These unmet long-term capital needs will ultimately require significant new investments, and some of the funding mechanisms discussed in this report can help. However, the City has adequate funding for the capital repairs it can reasonably carry out during the near term. This makes annual funding for preventive maintenance the City’s most immediate financial need, and therefore it is the primary focus of this report.

Funding for Preventive Maintenance. The City has two dedicated funding sources available for preventive street maintenance (Dedicated Street Revenue) – a \$2.3 million annual dedication from the state’s fuel tax receipts and a 1.9-mill property tax for streets and traffic signals that the City estimates will generate \$6.2 million in 2017.¹⁰ The combined \$8.5 million of Dedicated Street Revenue falls far short of the \$30 million to \$35 million that the City says it needs.¹¹

Moreover, the City doesn’t spend all of these dedicated revenues on street maintenance. As it is authorized to do, the City directs some of it to traffic signals and drainage. From 2011 to 2016, the City spent an average of just \$3.8 million on street maintenance, less than half of the Dedicated Street Revenue and only one-ninth of the estimated need.¹²

Contributing to the problem, there are questions about whether the City spends all of its Dedicated Street Revenue in accordance with provisions controlling its use.¹³ As Table 2 indicates, the City’s cumulative general fund expenditures on street maintenance, drainage and traffic signals from 2010 to 2015 did not exhaust its Dedicated Street Revenue. During this six-year period, the City had a total of \$1.9 million in excess Dedicated Street Revenues that it apparently spent on other purposes. The pattern appears to continue in the City’s general fund budgets for 2016 and 2017, which show that Dedicated Street Revenue will exceed expenditures for streets, drainage and traffic lights by at least \$750,000 each year. Based on the 2016 and 2017 numbers, the City will have spent a total of \$3.5 million in Dedicated Street Revenue on other purposes from 2010 to 2017.

BGR attempted to reconcile the City’s spending practices with the legal requirements for the Dedicated Street Revenue. In response to BGR’s questions, City officials noted that the 2016 and 2017 budgets allo-

TABLE 2: CITY OF NEW ORLEANS, DEDICATED STREET REVENUE COMPARED TO EXPENDITURES, 2010-15
(Highlighted figures indicate dedicated revenues that the City did not spend on streets, drainage and traffic signals as required.)

	2010	2011	2012	2013	2014	2015	TOTAL (2010-15)
Dedicated Street Revenue							
1.9-mill tax	\$3,457,000	\$4,826,000	\$4,946,000	\$5,317,000	\$5,508,000	\$5,803,000	\$29,857,000
State gas tax dedication	2,091,000	2,089,000	1,953,000	2,325,000	2,191,000	2,378,000	13,027,000
Total Revenue	5,548,000	6,915,000	6,899,000	7,643,000	7,699,000	8,181,000	42,885,000
Expenditures							
Street maintenance and drainage	2,352,000	2,659,000	2,789,000	1,103,000	1,899,000	7,357,000	18,159,000
Traffic signals	2,499,000	5,751,000	1,921,000	5,087,000	5,410,000	2,183,000	22,851,000
Total Expenditures	4,851,000	8,410,000	4,710,000	6,190,000	7,308,000	9,541,000	41,010,000
Revenue Minus Expenditures	\$697,000	-\$1,494,000	\$2,189,000	\$1,452,000	\$391,000	-\$1,360,000	\$1,875,000

Note: Numbers might not add due to rounding.

Source: BGR analysis based on City of New Orleans operating budgets.

cate a total of \$4.5 million to street maintenance from a fund for the City's BP oil spill settlement. Including these funds would place the City's total expenditures on streets, drainage and traffic signals from 2010 to 2017 \$1.1 million above its total Dedicated Street Revenue during the same time period. Thus, the officials contend that there is no issue with dedicated street and traffic signal revenues going toward other purposes.

However, the BP settlement fund is not part of the general fund. The settlement fund is a separate account consisting of one-time, non-recurring dollars. While these settlement dollars could supplement Dedicated Street Revenue, they cannot replace it.

Part of the problem is that the City does not segregate its Dedicated Street Revenues in a separate fund as it does for some other dedicated revenues.¹⁴ Doing so would allow the City to track expenditures and maintain a fund balance for any revenues that are not spent in a given year. Instead of maintaining a separate fund, the City pools its Dedicated Street Revenues with other general fund revenues, making it harder to account for expenditures. To avoid this problem in the future, the City should implement accounting and budgeting practices to ensure that it spends all revenues dedicated to streets and traffic signals on those purposes.¹⁵

Funding Maintenance at a Responsible Level. BGR has previously taken the position that the City should significantly increase funding for preventive street

SHORT TERM VERSUS LONG TERM

As noted earlier, fully funding preventive maintenance is the City's most urgent need. With that in mind, this report focuses on finding recurring revenue for maintenance. However, among the funding mechanisms addressed in this report are options that can help the City fund future capital repairs as well.

maintenance. Spending more on maintenance and minor repairs tends to pay for itself, and then some, in savings on major capital repairs. By the City's own estimates, every dollar invested in preventive maintenance can save four or five dollars in repair costs down the road.¹⁶ Adequate funding for street maintenance is more important now than ever with the City poised to spend hundreds of millions of federal and local dollars on capital street repairs in the coming years. The City must maintain those newly paved streets to fully reap the benefits of this enormous infrastructure investment.

PAYING FOR STREET MAINTENANCE

This section analyzes options for increasing funding for street maintenance and repairs. It focuses primarily on funding options that have some connection to street use.¹⁷

BGR's framework for analysis consists of five evaluation criteria based on best practices for government funding and previous BGR research on taxes and fees. The criteria reveal the strengths and weaknesses of each funding option; they identify options that would be fair, feasible and effective in meeting the City's street funding needs. BGR does not rank the criteria themselves or use them as a scoring system. Here is an overview of the criteria:

Nexus to Streets. Government funding mechanisms tend to be fairest when they take into account the extent to which the payer benefits from or places burdens on the underlying service or infrastructure.¹⁸ Thus, it is desirable for street funding options to have a connection to the payer's use of and impact on the street network. A funding option that increases or decreases based on the extent to which the payer uses or burdens local roads would generally be superior to one in which citizens pay the same amount regardless of street use. For example, buses and large trucks tend to cause the greatest damage to pavement due to their weight distribution.¹⁹ A funding

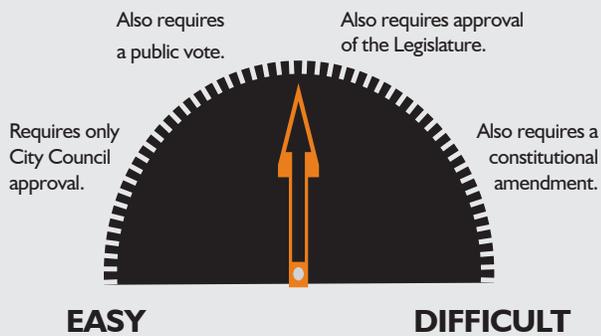
LESSONS FROM THE SCHOOL BOARD

The City is at a crossroads similar to what the Orleans Parish School Board faced when FEMA provided \$1.5 billion to repair and rebuild schools damaged during the Katrina disaster. Prior to Katrina, many public school facilities in New Orleans suffered from serious deterioration, a consequence of long-term underfunding. The huge infusion of federal money provided a fresh start, but it will not pay for future repair and replacement.

To help ensure the rebuilt schools do not fall into disrepair, the School Board obtained voter approval in 2014 of a property tax dedicated to the maintenance and repair of school facilities. BGR supported the tax and applauded the School Board's step to end past practices of neglect.*

* BGR, *On the Ballot: New Orleans and Jefferson Parish Propositions*, December 6, 2014, November 6, 2014, p. 4.

CHART B: EASE OF IMPLEMENTATION



option that generates more revenue from them acknowledges their disproportionate impact.²⁰

Broad Base of Payers. Generating revenue from a broad base of payers avoids placing the burden of maintaining the citywide street network on a narrow group of citizens. This entails spreading the financial burden to entities and individuals who use the street network but otherwise would not pay for its maintenance. This potentially includes nonresidents as well as nonprofits and government entities that do not pay City property taxes, the main source of local funding for streets.²¹

Revenue Generating Potential. The extent to which funding options can generate significant revenue is important given the City’s large unmet maintenance needs.

Ease of Implementation. Some funding options simply require City Council approval to implement. At the other end of the spectrum are options that require an amendment to the state constitution. It is important to take into account the hurdles that funding options must clear for implementation. See Chart B.

Ease of Administration. Existing billing and collection systems may be able to administer some new funding options, but others may impose significant new administrative burdens. It is important to take into account how easily the City could administer new funding options and whether they are cost-effective and practical.

While there is no question that the City needs more money for streets, this does not necessarily mean it needs more money from the public. The first place

the City should look to identify additional funding for streets is existing revenue streams. Policymakers owe it to the public to take steps to ensure current resources are deployed optimally before asking for more money.

In this context, the following discussion first considers existing revenues that could be redirected to provide more funding for streets. It then analyzes potential increases in certain revenue streams. Later, the report evaluates potential new sources of revenue for streets.

BGR presents the funding options in this report solely within the context of the City’s need for more street funding. The discussion should not be construed as a collection of options for funding other City purposes.

Redirect Street-Related Fees, Fines and Taxes

The City receives substantial revenue from 10 sources that have a very strong nexus to streets, including traffic camera tickets, parking meters, parking tickets and traffic fines. As Table 3 indicates, these street-related

TABLE 3: CITY OF NEW ORLEANS 2017 REVENUE SOURCES LINKED TO STREETS

Revenue Source	Projected Revenues
Traffic camera tickets	\$24,000,000
Parking tickets	\$15,000,000
Motor vehicle sales tax	\$13,647,500
Parking meters	\$8,958,000
Traffic tickets	\$6,606,000
Parking tax	\$4,800,000
Vehicle towing/booting charges	\$3,584,000
Motor vehicle permits (brake tags)	\$1,890,000
Misc. street and curb fees*	\$508,900
Impounded vehicles	\$125,000
Subtotal	\$79,119,400
Less collection/enforcement costs**	\$26,593,600
Net revenue	\$52,525,800

*Includes fees for street closures and neighborhood parking permits.

**Includes \$13.7 million for parking enforcement; \$8.5 million for operating traffic cameras and administrative hearings on contested tickets; and \$4.4 million in City funding for Traffic Court.

Note: All tax figures are net of collection fees.

Source: City of New Orleans 2017 Operating Budget

Redirect Street-Related Fees, Fines and Taxes

PRO

- Good nexus to streets
- Broad base of payers
- Strong revenue potential
- Easy to implement
- Easy to administer

CON

- May require cuts to other areas of the budget

revenues will total an estimated \$79.1 million in 2017, accounting for about 13% of the City's operating budget. The City expects to spend about \$26.6 million on collection and enforcement costs associated with the various fees, fines and taxes, leaving \$52.5 million in net street-related revenues.

While all of this revenue has a strong nexus to the street network, none of it goes toward streets. As previously noted, all of the City's general fund spending on streets is covered by two tax dedications: a 1.9-mill property tax and a state fuel tax dedication.

BGR's 2008 report on streets urged the city to explore the possibility of redirecting some street-related revenues to increase funding for street maintenance.²² This option remains worthy of serious consideration as a potentially significant source of new money for streets. The \$52.5 million in net street-related revenue is more than five times the \$9.5 million that the City budgeted for street maintenance in 2017. Thus, redirecting a portion of the street-related revenues to preventive maintenance could have a major impact.

Pros and Cons. These revenue sources all have a strong nexus to streets. Collectively, they have a broad base of payers that, in many cases, includes nonresidents who use the City's streets. These sources also have the potential to generate substantial revenue for streets.

However, because the City currently uses these revenues for other purposes, budget cuts would likely be necessary to redirect some of the money to streets. Given that residents rank fixing crumbling streets as one of their top priorities, there may be justification to

cut some areas of the budget in order to spend more on streets.

One way to avoid or minimize budget cuts is to use 2017 as a baseline year and redirect future growth in net street-related revenues to fixing streets. If the City had taken this approach in 2009 after BGR first proposed redirecting some of these revenues to street maintenance, the City would now have an additional \$21.1 million a year for streets.²³ It is noteworthy that the annual growth in these street-related revenues has averaged 6.7% since 2009, far outstripping the 1.5% average annual rate of inflation over the same time period.²⁴ This growth came amidst an average 4.1% yearly increase in the City's general fund. If the City had redirected only the portion of street-related revenue increases that exceeded the rate of inflation, it would still have an additional \$16.8 million annually for preventive maintenance.²⁵

Rededicate Local Taxes

In a November 2015 report entitled *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?*, BGR presented a comprehensive analysis of where local taxes in Orleans Parish are going. The report found that, taking into account capital expenditures, just 3% of the roughly \$1 billion in local tax revenue goes to streets. This pales in comparison to the shares allocated to other purposes, such as promoting tourism, conventions and professional sports (14%) and public transportation (7%). The report also found that while the City is struggling to meet basic needs, some government entities in the parish have sizable surpluses. For example, the New Orleans Ernest N. Morial Convention Center has a \$241.6 million surplus fueled largely by two local taxes that the convention center has continued to receive even though it abandoned the project the taxes were intended to fund.²⁶

The report linked the misalignment between tax allocations and the community's needs to a local tax structure that evolved in a piecemeal fashion over the course of half a century with little planning and accountability. If tax dedications are permanent or long-term, they can take on lives of their own without being re-evaluated in light of changing conditions and competing needs. The report highlighted several

tax dedications that illustrate the problems associated with this ad hoc approach to taxation.

BGR reiterates its key recommendation from *The \$1 Billion Question* by urging the mayor and the local legislative delegation to initiate a comprehensive re-assessment of existing tax dedications with an eye toward redirecting local taxes to meet basic municipal needs, including streets. Policymakers owe it to the public to find a way to deploy existing tax revenues optimally, especially before seeking additional revenue from citizens.

Increase Existing City Taxes

While the City receives a dozen types of taxes, 95% of its tax revenue comes from four types – property, sales, hotel and parking taxes.²⁷ BGR limited its analysis of potential tax increases for streets to these four because they have the greatest potential to generate significant additional revenue.

Property Taxes. As previously noted, property taxes generate the vast majority of the revenue that the City currently spends on streets. A 1.9-mill tax dedicated to streets and traffic signals yields about \$6.2 million. Also, a portion of the City's 25.5-mill debt service millage supports bonds used to fund capital repairs. BGR has estimated that about 8 mills of the debt service millage, or \$27 million, can be attributed to bonds for capital street repairs.²⁸ The roughly \$33 million from these two property taxes accounts for nearly all of the local funding for streets.

Because property taxes are already the primary source of street funding, one option for generating more money for streets is to increase property taxes dedicated to streets. This would require the approval of the City Council and voters.

Each mill would yield about \$3.3 million annually. The City would need to increase taxes by 6.5 mills to 8 mills to generate the additional \$21.5 million to \$26.5 million it needs to properly maintain its streets. This would be a 4% to 5% increase over the current overall tax rate of 154.08 mills (east bank).²⁹

It is noteworthy that annual property tax revenue need-

INCREASE CURRENT FINES AND FEES? NOT SO FAST ...

This report does not contemplate increasing the existing street-related fees and fines. This is primarily because the City has already seen significant growth in these revenues in recent years. For instance, a 2016 hike in parking meter rates, a 50% increase in parking ticket fines and the expansion of parking enforcement hours coupled with an ongoing expansion of traffic cameras will yield a projected \$10 million in net new revenue in 2017. Yet the City is not allocating any of it to streets. Until the City does so, potential increases in these revenue streams should remain off the table.

That said, increases in certain street-related fees and fines have more potential than others.

Take traffic camera fines, for instance. They have an obvious connection to street use. While the base of payers is not particularly large, it includes nonresidents who use City streets. Implementing a ticket increase would require City Council action alone.* There would be no new administrative costs associated with raising the fines. And a 20% across the board increase in traffic camera ticket fines would yield about \$4.8 million for streets. That is more than the \$3.8 million annual average that the City spent on preventive street maintenance from 2011 to 2016.**

With a 20% increase, traffic camera tickets would still be far less than tickets issued by police officers for the same offenses. For instance, a camera ticket for running a red light would be \$162 compared to \$222.50 for a police-issued ticket for the same offense. A camera ticket for traveling 10-14 mph over the speed limit would be \$132 compared to \$257.50 for a police-issued ticket.***

On the other hand, traffic camera fines are a prime example of a missed opportunity to fund street maintenance. The City is nearly doubling the number of traffic cameras this year, an expansion that it projects will generate \$5 million in additional net ticket revenue in 2017. But the City allocated none of this new revenue to streets. With the expansion fully implemented, those revenues are expected to increase by another \$2 million to \$4 million in 2018. The City should strongly consider budgeting some or all of the new traffic camera revenues for street maintenance beginning in 2018.

* The fines are established by City ordinance. See City of New Orleans Code of Ordinances, Sec. 154-1703.

** BGR calculation using data from City budgets.

*** BGR calculations using fine schedules for the traffic cameras (www.violationinfo.com/LAORL/html/info.htm) and police-issued tickets (www.nola.gov/traffic-court/schedule-of-fines/). Police-issued tickets cost more primarily because they contain multiple fees for the court system in addition to the base fine.

Property Tax Increase	
PRO	CON
<ul style="list-style-type: none"> • Strong revenue potential • Relatively easy to implement • Easy to administer 	<ul style="list-style-type: none"> • Limited nexus to streets • Limited base of payers

ed to service the City’s debt is scheduled to plunge in 2022 by \$31.7 million from \$75.5 million to \$43.8 million. This would trigger a proportionate decrease in the city’s debt service millage of about 10 mills at current assessed valuations.

Property taxes have strong revenue generating potential. They also are relatively easy to implement and can be administered with existing billing and collection systems.

However, property taxes have a couple of significant shortcomings as a funding option for street improvements. First, because property taxes are based on the property’s value, they have a limited nexus to street use. A business that generates a high volume of truck traffic pays the same taxes as a similarly valued business that generates little traffic. Second, the base of payers for property taxes has some major holes in it. The nonprofit, government and homestead exemptions shield many properties from taxation, even though some of these properties, such as hospitals and universities, may impose significant burdens on the street network. Overall, there are 169,729 total parcels in the city, of which 15,728, or 9.3%, are completely tax-exempt³⁰ and 8,567 parcels pay very little because of the homestead exemption.³¹ This unfairly shifts the tax burden to maintain the City’s streets to other property owners. BGR has estimated that a staggering two-thirds of New Orleans’ property value is off the tax roll because of exemptions, including those for government entities.³²

Sales/Hotel Taxes. The City could seek increases in its sales or hotel taxes to generate money for streets. The City currently levies a 2.5% citywide sales tax that it estimates will generate \$196.4 million in 2017.³³ At that

rate, each 0.25% sales tax increase would yield about \$18.3 million.³⁴ The City also levies a 1.5% hotel tax that will generate an estimated \$17.9 million. At that rate, each 1% hotel tax increase would yield about \$11.9 million.

Both taxes could generate substantial revenue and could be administered using existing billing and collection systems. In addition, sales taxes have a very broad base of payers.

Sales and hotel taxes have only an indirect connection to street use, although they frequently apply to broad municipal purposes. There are significant implementation concerns with both options. The Legislature’s approval of a 1% state sales tax increase in 2016 raised the combined average state and local sales tax in Louisiana to about 10%, the highest in the nation. Any increase would require the approval of the state Legislature, the City Council and New Orleans voters.

The situation is similar for hotel taxes. In 2014, the Legislature rejected a bill to authorize the City to seek voter approval of a 1.75% hotel tax increase after tourism officials argued that it would raise the overall hotel tax rate to a noncompetitive level. Since then, the state’s new 1% sales tax increase, which applies to hotels, has raised the total hotel tax in New Orleans even higher than it was in 2014. This makes it less likely that the Legislature would authorize the City to seek an increase under current circumstances. (See the sidebar on page 15 for a discussion about priorities for hotel tax revenues in Orleans Parish.)

However, the state’s new 1% sales tax will expire in July 2018 unless the Legislature votes to extend it. A City consultant hired to analyze street funding options

Sales/Hotel Tax Increase	
PRO	CON
<ul style="list-style-type: none"> • Broad base of payers • Strong revenue potential • Easy to administer 	<ul style="list-style-type: none"> • Indirect nexus to streets • Difficult to implement

said that if the state tax expires, the City could ask the Legislature to authorize it to seek voter approval of a new local sales tax dedicated to streets. The consultant noted that if the new local tax were capped at 1%, the total sales tax rate would not be higher than the current 10%.³⁵

Parking Tax. The City levies a 3% tax on fees charged for parking motor vehicles. The tax is in addition to the combined state and local sales tax of 10%, which also applies to parking. As a result, the total tax on parking is 13%.

The City projects the 3% parking tax will generate \$4.8 million in 2017. Thus, every percentage point increase in the parking tax rate would generate about \$1.6 million that the City could spend on streets.³⁶

Parking taxes have a strong nexus to streets and a broad base of payers that includes nonresidents who use the City's streets but do not currently help pay to maintain them through property taxes. A parking tax increase could generate significant revenue, and it would be easy to administer through the City's existing collection system.

The primary drawback of a parking tax increase is that it could be difficult to implement. The City Council imposed the tax by ordinance in the late 1980s. Parking operators sued, asserting that the parking tax is a sales tax and, therefore, illegal because it exceeds limits on local sales taxes in the Louisiana Constitution.³⁷ The constitution specifies that the sales tax limits can be exceeded with the Legislature's approval.³⁸ But the suit argued that the Legislature did not approve the City's parking tax, rendering it unconstitutional. The council reached an agreement with parking operators

A QUESTION OF PRIORITIES

The Louisiana Legislature's refusal to authorize the City of New Orleans to seek voter approval of a 1.75% hotel tax increase in 2014 came after three other entities operating in Orleans Parish received new hotel taxes without voter approval. This juxtaposition raises questions about accountability and the prioritization of competing needs in deploying hotel tax revenues. Here are the hotel tax increases in question:*

A 1% hotel tax the Legislature imposed in 2002, along with a 0.25% citywide food and beverage tax, to fund a Convention Center expansion. Although the project was scrapped shortly after Hurricane Katrina, the tax remains in place and has helped the Convention Center amass a \$241.6 million surplus.

A 1% hotel tax for the Regional Transit Authority that was imposed through a 2000 court settlement – even though a voter-approved ballot proposition explicitly exempted hotels from the RTA's sales tax. The RTA shares large portions of the hotel tax with the Convention Center and a tourism promotion entity.

A Legislature-authorized 1.75% assessment approved by hoteliers in 2014 for a private non-profit that promotes tourism and conventions. BGR had opposed the authorizing legislation on the grounds that it would consume a portion of the city's finite taxing capacity without voter approval or analysis of competing needs.**

The two hotel taxes and assessment total 3.75% and will generate more than \$40 million in 2017. Whether these tax dedications make the best use of limited public resources is a question that policymakers and the public need to ask, especially as the City struggles to secure funding for basic infrastructure.

Supporting tourism at an appropriate level is important to promote economic development. However, the funding level should be determined in the context of competing needs. After all, local government's ability to deliver the basics, such as public safety, infrastructure, water management and education, also affects economic development in New Orleans.

* For a more detailed discussion of these tax dedications, see BGR, *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?*, November 2015, pp. 11-15.

** Bureau of Governmental Research, *The Hotel Assessment: A Question of Priorities, a Question of Propriety*, May 14, 2013. The New Orleans Convention & Visitors Bureau asserts that the 1.75% assessment is not a tax, but an optional surcharge that its member hotels have agreed to pay to promote tourism. However, from the standpoint of a hotel guest, it has the same effect as a tax. State law requires the hotels to pass the assessment on to guests as a mandatory surcharge on their bills, just like a tax.

Parking Tax Increase	
PRO	CON
<ul style="list-style-type: none"> • Good nexus to streets • Broad base of payers • Moderate revenue potential • Easy to administer 	<ul style="list-style-type: none"> • Difficult to implement

to reduce the parking tax from the original 10% to the current 3% and raise rates on City parking meters in exchange for the operators dropping their lawsuit.³⁹ If the City attempts to raise the parking tax, the parking operators could challenge it again – and possibly do away with the entire tax. To avoid this scenario, the City could seek the Legislature’s authorization to increase the parking tax beyond the constitutional cap on local sales taxes. Such an increase also would require local voter approval. Either way, the path to implementation is not easy.

NEW FUNDING SOURCES

Given the limitations and feasibility issues concerning the potential City tax increases to fund streets discussed above, the City should explore other street-funding options. This section analyzes new funding options that generally have a strong nexus to streets. Several of them can also generate substantial revenue, making them potential sources of funding for capital repairs after the City exhausts the FEMA and local bond money in 2025. The options include:

- Transportation Utility Fee
- Local Fuel Tax
- Employment or Commuter Tax
- Road Use Charge
- Driver’s License Fee
- Special Assessment Districts

Transportation Utility Fee

As noted earlier, property taxes are the City’s primary source of local funding for streets despite a weak nexus to streets and exemptions that significantly reduce the tax base. An alternative property-based funding mechanism that addresses these concerns is to charge property owners or occupants a Transportation Utility Fee, or TUF. As its name suggests, a TUF treats the street network like a public utility. Residents, businesses and other entities pay fees to maintain local streets similar to service charges for utilities. About three dozen U.S. municipalities, most of them in Oregon, impose TUFs, which are sometimes called road user fees or street maintenance charges.⁴⁰ Most municipalities place the fees on monthly utility bills.

There are two types of TUFs. In one, the municipality imposes a flat per-parcel fee. In the other, the fees are based on estimates of how many vehicle trips each property type generates.⁴¹ Flat parcel fees are problematic because properties that vary in size or use can have vastly different impacts on the street system. For instance, large sections of certain local university campuses are located on a single parcel. One Shell Square, which takes up an entire city block, is also considered a single parcel. Under a flat per-parcel fee structure, these large parcels could pay the same amount as the owner of a residence on a 30-by-90-foot lot. This inherent unfairness disqualifies a flat fee. On the other hand, fees that are based on how many vehicle trips a property generates have a much stronger correlation between payments and benefits. For this reason, the following discussion of TUFs focuses on those in which the fees are based on vehicle trips.

Because TUFs are not ad valorem property taxes, they can apply to nonprofits and government entities that are exempt from property taxes.⁴² This spreads the cost of maintaining streets to a broader base.

Efforts to impose a Transportation Utility Fee on entities not accustomed to paying taxes may draw legal challenges. Lawsuits in other states alleging that TUFs are illegal taxes have had mixed results. To help pass legal muster, a TUF should be linked to a particular benefit to the payer, and the amount of the fee should approximate the cost of providing that benefit. Also, TUF revenue should be spent solely on transportation infrastructure.⁴³

In New Orleans, the City’s Home Rule Charter allows the City Council to impose taxes and fees that are not expressly prohibited by the Louisiana Constitution, which does not prohibit TUFs. The charter requires voter approval for some service charges, but it is unclear whether a TUF falls in the category requiring voter approval.⁴⁴ New Orleans voters have rejected three proposed citywide parcel fees since the 1980s, though none would have been dedicated to streets.⁴⁵ The confusing legal circumstances suggest one of two courses of action: pursue a fee without a public vote, at the risk of lawsuits; or craft the best possible fee structure and submit it to voters for approval.

Establishing a trip-based TUF in New Orleans would require a determination of the uses of each property in the city, with estimates of how many vehicle trips the property generates. To simplify the process and to avoid having to conduct a costly traffic study, most cities use the Institute of Transportation Engineers' estimates of the number of vehicle trips that different property types generate. For example, the estimated number of trips generated per 1,000 square feet of building space during a peak hour is one trip for a hospital, 11.6 trips for an automated car wash and 52 trips for a 24-hour convenience store.⁴⁶

Once the City has established baseline trip estimates for each property, it can calibrate the fees to meet its revenue requirements. TUFs in other cities vary widely depending upon how much revenue the community seeks to generate. In Oregon, where 30 municipalities have TUFs, monthly fees for residential properties range from about \$1 to \$8.⁴⁷

According to BGR interviews with officials in three cities that have TUFs, in order to build and maintain public support for a TUF, it is important to document that all of the revenue is spent on streets and to demonstrate that street conditions are improving. All three cities – Austin, Texas; Provo, Utah; and Medford, Oregon – base their fees on estimates of how many vehicle trips each property type generates. They also all place the fees on monthly utility bills payable by the properties' occupants.

Austin's TUF generates about \$70 million a year. Of that amount, \$48 million goes to street maintenance and repairs; the rest goes to other transportation improvements, such as improving traffic flow and safety. The fee for a single-family home is \$11.52 a month, or \$138.24 per year. (See Table 4 for examples of fees for other types of properties.) The TUF funds an aggressive preventive maintenance program that costs about \$30 million a year. Austin officials credit the maintenance program for reducing repair costs and keeping the city's streets in good condition. About 80% of Austin's streets are in fair condition or better.⁴⁸

Provo implemented its TUF to provide a recurring source of revenue for annual preventive street maintenance. Previously, the city funded street maintenance

by issuing 10-year bonds. City officials said this was problematic because the bond proceeds would typically be spent within the first few years, and the city could not perform additional maintenance until the debt was retired or refinanced. This resulted in gaps of up to five years in which the city performed little or no maintenance. Now, with a recurring source of revenue, the city performs street maintenance consistently.

Similarly, Medford, Oregon, uses its TUF to take a debt-free or pay-as-you-go approach to funding street maintenance and repairs. The fee generates about \$6 million to maintain about 200 miles of roads and 22 miles of alleys. The fee is \$6.96 per month for a single-family home, or \$83.52 per year. City officials said the fee applies to all properties, including city-owned properties.

In 2011, BGR recommended that the City consider imposing different types of service charges, including a TUF, to help pay for basic public services and infrastructure.⁴⁹ In a similar vein, BGR recently issued a report recommending that the City consider a stormwater fee to help fund drainage improvements.⁵⁰ Such fees are typically based on estimates of how much runoff a property generates.

Pros and cons. TUFs have strong revenue-generating

TABLE 4: TRANSPORTATION UTILITY FEES IN AUSTIN, TEXAS

Property Use	Acres	Monthly Fee
Single-family home	N/A	\$11.52
Church	1.2	\$34.58
Dry cleaner	0.2	\$56.47
Self-storage facility	3	\$169.41
Gas station	0.9	\$254.12
Office building	1.2	\$304.94
Chain restaurant	1.4	\$381.17
Cinema	2.7	\$762.35
Commercial warehouse	31.3	\$1,764.69

Note: Austin's TUF is calculated by multiplying the property's developed acreage by \$57.64 per acre and multiplying the result by a trip factor that corresponds to an estimate of how much traffic the property type generates. To simplify the calculations, all single-family homes are treated as if they sit on 0.2 acres.

Source: Information provided by the City of Austin, Texas.

Transportation Utility Fee

PRO

- Excellent nexus to streets
- Broad base of payers
- Strong revenue potential
- Relatively easy to administer

CON

- Moderately difficult to implement

potential and an excellent nexus to streets. Properties that generate more vehicle trips and, therefore, impose a greater burden on the street network must pay higher fees to maintain it. TUFs also have a broad base of payers because the fees may apply to a wider range of properties, including those of nonprofits, government entities and homeowners whose homes are fully exempt from property taxes.

Administering the fees would be relatively easy. The City and Sewerage & Water Board could agree to place the fees on monthly utility bills, which the property's occupant typically pays. This approach makes sense because the occupant of the property is responsible for how much traffic it generates.⁵¹ It would tend to exclude vacant properties that generate negligible traffic, as these properties generally also lack water service.

Implementing a TUF could be a challenge. Depending upon how the City's charter is interpreted, voters might have to approve a TUF, adding another hurdle to the implementation process. As a practical matter, a TUF imposed without voter approval would likely face a legal challenge. To avoid the uncertainty this would cause, it may make sense to seek voter approval at the outset. As BGR has previously recommended, the City Council should pursue a charter change clarifying the authority of, and process for, the City to impose fees and service charges.⁵²

Despite the implementation challenges, a TUF deserves serious consideration as an option to reduce or supplement the City's reliance on property taxes as the primary funding option for streets. A TUF overcomes the fairness and nexus concerns associated with property taxes.

Local Fuel Tax

Taxes on gasoline and other vehicle fuels have long been a major revenue source for building and maintaining the nation's roads, bridges and other transportation infrastructure. The federal government, all 50 states and some local governmental entities levy fuel taxes. The federal tax is 18.4 cents per gallon for gasoline and 24.4 cents for diesel fuel. Louisiana collects a tax of 20 cents per gallon of gas and other vehicle fuels.⁵³

The Louisiana constitution prohibits parishes and municipalities from levying fuel taxes.⁵⁴ However, thirteen states allow local governmental entities to levy fuel taxes.⁵⁵ In Oregon, cities can levy fuel taxes of up to 5 cents per gallon and counties up to 3 cents per gallon through local referenda. In Alabama, cities and counties receive an average of 2 cents per gallon. In Illinois, Chicago levies a tax of 5 cents per gallon, and any city with a population above 100,000 can impose a 1-cent-per-gallon tax by referendum.⁵⁶ Some of the highest local fuel taxes are in Florida, where counties receive taxes ranging from 11 cents to 19 cents per gallon.⁵⁷

Implementing a local fuel tax in New Orleans would require several steps. First, the Legislature must approve a ballot proposition to lift the constitutional ban on local fuel taxes.⁵⁸ Second, statewide voters must approve the amendment. Third, the City Council must place a fuel tax proposition on the local ballot. Finally, New Orleans voters must approve the proposed fuel tax.

Alternately, the Legislature could use its authority to increase state fuel taxes and dedicate some or all of the additional revenue to parishes for local street projects. As noted earlier, the state already does this with a portion of its current fuel tax revenues. The state dedicates the equivalent of about 1.25 cents of its 20-cent-per-gallon fuel tax to parishes based on population and miles of roads under local control. Orleans Parish's share amounts to \$2.3 million annually.

The state does not track fuel tax receipts by parish. As a result, it is difficult to determine precisely how much revenue a local fuel tax in New Orleans would generate. If gasoline tax receipts were proportionate to the city's population, then about \$50 million of the roughly \$600 million in statewide receipts would come from New Or-

UNSUITABLE FUNDING OPTIONS

BGR reviewed a number of street funding options that it determined are unsuitable as recurring revenue sources for preventive maintenance, primarily because they either are not feasible or would not generate significant revenue. Here is a summary of them:

Local Tolls. State law authorizes municipalities and parishes to establish transportation authorities with the power to, among other things, impose tolls on roadways within their jurisdictions. The toll revenue can be used to build new transportation infrastructure or to maintain existing infrastructure.⁽¹⁾ However, the possibilities for tolling on New Orleans streets are extremely limited. Tolling is most feasible on roads with limited access points, and there are few, if any, suitable roadways in the city.⁽²⁾

Public-Private Partnerships. Louisiana is among 34 states that allow government entities to enter into public-private partnerships for transportation infrastructure projects. In such partnerships, a private entity typically builds a piece of infrastructure and recovers its costs plus a profit through fees, such as tolls or passenger fares in the case of transit projects.⁽³⁾ The poor prospects for establishing tolls on City streets make public-private partnerships an ineffective tool for street maintenance.

Impact fees. More than 30 states authorize local government entities to impose impact fees on new developments to help pay for expanded public infrastructure to serve those developments.⁽⁴⁾ Typical infrastructure projects include extending water and sewer lines as well as building new streets or increasing the capacity of existing streets. The one-time fee is usually collected as part of the permitting process for the development. Louisiana has authorized a handful of entities to impose impact fees. Although the City of New Orleans is not among them, the City's charter allows the City Council to impose taxes and fees that are not expressly prohibited by the state constitution, which does not prohibit impact fees. However, courts across the country have ruled against using impact fees to maintain existing infrastructure as opposed to building new infrastructure.⁽⁵⁾

Auto Rental Tax. The state of Louisiana levies a 3% tax on car rentals. The state retains the proceeds from 2.5% of the tax and dedicates the remaining 0.5% to entities in the parish where the tax was collected.⁽⁶⁾ In Orleans Parish, the local share is roughly \$53,000 per year – a relatively modest sum that reflects the fact that most car rental businesses in the area are in Jefferson Parish.⁽⁷⁾ The New Orleans Council on Aging receives three-quarters of the Orleans Parish revenue, with the remainder going to the Downtown Development District. Regardless, the amount of revenue involved would not make a significant dent in the City's street-funding needs.

Vehicle-Miles Traveled or VMT Fee. With this funding mechanism, motorists pay fees based on the actual number of miles they drive. The fee can be a flat rate for every mile driven, or the amount can vary depending on where and when the motorist drives. This allows for higher fees during peak hours on busy roadways. The technology can also be harnessed to determine which roads the driver is using; for instance, a New Orleans driver would have to pay only for the miles logged on City-owned streets. The main advantage of this approach is the excellent correlation between the fee and use of the street system. However, there are major implementation obstacles that disqualify a VMT fee for now. For instance, determining the number of miles driven within a particular jurisdiction would require some sort of tracking device in the vehicle. It should be noted that a VMT funding mechanism has never been implemented on a large scale anywhere in the world.⁽⁸⁾ However, if in the future VMT fees become more feasible, policymakers should seriously consider implementing them.

Petition and Lien Program. State law authorizes municipalities to implement programs in which property owners can petition the municipality to repave or make major repairs to streets abutting their properties. The property owners must agree to cover some or all of the costs, which become legal obligations through liens placed on their properties. Property owners whose lots account for at least half of the street's linear front footage must sign the petition. The municipality assesses a portion of the project's costs to each property owner, including any who did not sign. State law allows the municipality to make the assessments payable up front or to spread them out over 10 years and charge interest.⁽⁹⁾ In the 1950s, the City of New Orleans implemented a petition and lien program that focused primarily on upgrading unpaved streets. Under the City's program, petitions had to be signed by property owners whose lots accounted for 60% of the street's linear front footage. The City paid half of the costs, with abutting property owners paying the other half in equal installments over 15 years. The program was in place for about five years before the City ended it.⁽¹⁰⁾ Because such programs involve ad hoc, one-time street investments, they are not suitable to meet the City's recurring maintenance funding needs.

State Road Transfers. The Louisiana Department of Transportation and Development has a program to transfer ownership of certain state roads to parishes and municipalities.⁽¹¹⁾ In exchange for accepting responsibility to maintain the roads, the local government entities receive upfront state payments to cover maintenance costs for 40 years. The payments range from \$423,000 to \$1.3 million per mile, depending upon the number of lanes, the type of pavement and the condition of the road. The payments include an additional \$153,000 for each traffic signal. The local entity can use the money for any road projects, including work that is not related to the transferred street. Thus, the City could accept ownership of a state road and use the lump-sum payment to address other streets with more pressing needs. But it would eventually have to find other revenues to maintain the transferred street, and there is a risk that it might fail to do so.

(1) La. R.S. 48:2029 (5)(b).

(2) Louisiana Department of Transportation and Development, "Alternative Funding Mechanisms," as presented to the Fix My Streets Financing Working Group on June 29, 2016.

(3) *Ibid.*

(4) Duncan Associates, National Impact Fee Survey: 2015, November 2015.

(5) American Planning Association, APA Policy Guide on Impact Fees, 1997.

(6) The auto rental tax was in place from 1990 to 2012, when it expired. The Legislature reinstated the tax in 2016. (Act 14 of the 1st Extraordinary Sess. of 2016)

(7) Jefferson Parish's share of the auto rental tax is about \$544,000 a year, or 10 times the Orleans figure. See Fiscal Note for House Bill 934 of the 2012 Reg. Sess. The bill would have authorized Orleans and Jefferson parishes to levy 3% auto rental taxes in lieu of the state tax, which expired that year. The governor vetoed the bill.

(8) See the Federal Highway Administration's overview at www.fhwa.dot.gov/ipd/revenue/road_pricing/defined/vmt.aspx.

(9) La. R.S. 33:3351 et seq.

(10) Information from the New Orleans Public Library's Archive Collection on Councilman James E. Fitzmorris, Box 11 of Series 1: Council District C: 1954-1962.

(11) The program is designed to right-size the state road network by reducing the state's share of public roads in Louisiana from the current 27% to the national average of 19%. The state Legislature requested that DOTD implement the transfer program in 2010. See House Concurrent Resolution No. 38 of the 2010 Reg. Sess.

Fuel Tax (Local Option or State Dedication)	
PRO	CON
<ul style="list-style-type: none"> • Excellent nexus to streets • Broad base of payers • Strong revenue potential • Easy to administer 	<ul style="list-style-type: none"> • Difficult to implement

leans. That works out to \$2.5 million in revenue for each penny of fuel tax in New Orleans.⁵⁹ Under the preceding assumptions, a 5-cent-per-gallon local fuel tax in New Orleans would generate about \$12.5 million a year for streets.

Pros and Cons. The key argument in favor of fuel taxes is their excellent nexus to street usage and impacts on the street network. Vehicles that consume a high volume of fuel tend to have the heaviest impacts on the road network, and thus bear more of the cost burden. For instance, buses and 18-wheelers have much larger impacts on the road network than a motorcycle. They also are less fuel-efficient, resulting in higher payments in fuel taxes.⁶⁰

A fuel tax has a very broad base of payers that includes virtually all motorists. It also can generate substantial revenue. The estimated \$12.5 million that a 5-cent-per-gallon fuel tax would yield is more than double what the City’s 1.9-mill property tax for street maintenance and traffic signals generates. Finally, a fuel tax would be relatively easy to administer through the state’s existing billing and collection system.⁶¹

The primary disadvantage to a local fuel tax is that it would be difficult to implement, requiring a constitutional amendment. A bill proposing an amendment to allow local fuel taxes did not receive a committee hearing during the 2016 regular legislative session.⁶²

A more feasible option for increasing fuel tax revenue for local streets is for the Legislature to use its existing authority to increase state fuel taxes and dedicate some or all of the revenue to local entities. The likelihood of the Legislature considering a fuel tax increase may be bolstered by the recommendation of a state task force to

significantly increase transportation funding. The task force identified a fuel tax increase as one of the most promising funding options.⁶³ However, raising taxes requires the approval of two-thirds of lawmakers in both chambers – which is itself a fairly high hurdle. Also, a local fuel tax dedication set forth in state law could be reduced or eliminated by a majority vote. That is not the case with the current local fuel tax dedication, which is set forth in the constitution.⁶⁴

Comparisons to other states suggest that Louisiana may have some untapped fuel taxing capacity. Louisiana has the ninth lowest fuel tax rate in the country, with a combined state and federal tax of 38.4 cents per gallon. That’s 11 cents less than the national average of 49.4 cents per gallon. Fuel taxes range from a low of 30.7 cents per gallon in Alaska to a high of 76.6 cents in Pennsylvania.⁶⁵

Louisiana’s 20-cent tax has not been increased since 1990. If the tax had increased at the same rate as inflation, it would be 38 cents today.⁶⁶

Raising Louisiana’s fuel tax 5 cents would still place it well below the national average. It also would be about 13 cents below the tax’s inflation-adjusted value from when it was last increased more than 25 years ago. For motorists, a 5-cent-per-gallon fuel tax increase equates to an average of about a quarter-cent per mile driven or roughly \$2.40 a month per vehicle.⁶⁷

Given its excellent nexus to streets and substantial revenue-generating potential, a fuel tax – either through a local-option referendum or a dedication from an increase in the state tax – merits strong consideration as a funding option for New Orleans streets.

Employment/Commuter Tax

Some local government entities impose employment taxes, commonly known as “commuter” taxes, upon people who work within their jurisdictions, including residents and nonresidents. The primary argument for taxing nonresident commuters is that they benefit from public services and infrastructure, including streets, but do not help pay for them through property taxes. About 5,000 jurisdictions in 17 states impose local taxes that apply to both resident and nonresident workers. The vast majority of these taxes are based on

a percentage of the worker's income.⁶⁸

In Louisiana, the state constitution prohibits municipalities and parishes from imposing income taxes.⁶⁹ In 1986, the City Council approved an ordinance establishing an "earnings tax" of 1.5% on annual gross earnings above \$5,000 for every person working in New Orleans.⁷⁰ However, the Louisiana Supreme Court declared the ordinance unconstitutional, noting that the term "income tax" is generally understood as a tax on income and that for the vast majority of people, the "earnings tax" applied to their only significant source of income.⁷¹

In its ruling, the court found that the City's tax shared key characteristics of income taxes levied in other states, including its basis as a percentage of a worker's earnings. However, the court's ruling did not address whether a tax for a fixed amount, such as \$50 per year applied uniformly to all employees, would be considered an income tax. This leaves open the question of whether the City could seek to impose such a tax to generate revenue for streets.

A handful of jurisdictions across the country impose employment taxes for a fixed amount. For instance, Denver imposes an Employee Occupational Privilege Tax of \$5.75 per month, for a total of \$69 a year, on residents and nonresidents who earn at least \$500 per month. In addition, employers must pay \$4 a month for each employee subject to the tax.⁷² Colorado's constitution is silent on local income taxes. However, the state Supreme Court ruled in 1958 that a percentage-based local income tax that Denver had implemented was unconstitutional.⁷³ Denver subsequently imposed its current flat occupational privilege tax, which the state Supreme Court has ruled constitutional.⁷⁴

About 207,400 people work in New Orleans, including 93,900 nonresidents, according to U.S. Census estimates.⁷⁵ Based on those numbers, a \$50 annual tax imposed on each person working in the city would generate about \$10.4 million a year. About 45% of that would come from nonresidents.

Pros and cons. The primary advantage of a commuter tax for streets is that it would enable the City to generate revenue from nonresident commuters who benefit from the street network but do not pay property taxes

Employment Tax	
PRO	CON
<ul style="list-style-type: none">• Broad base of payers• Strong revenue potential• Relatively easy to administer	<ul style="list-style-type: none">• Limited nexus to streets• Difficult to implement

to help maintain it. The tax would have a broad base of payers and could generate substantial revenues. It also would be relatively easy to administer. In other jurisdictions that levy local employment taxes, employers typically withhold the tax from employees' paychecks, just as they do for state and federal taxes.

However, the nexus to streets has limitations: All workers would pay the same amount regardless of whether they drive to get to and from their jobs. Furthermore, the tax would not apply to city residents who work outside New Orleans but still use city streets to get to their jobs.

A tax on workers in New Orleans also could make neighboring jurisdictions that do not impose such a tax more attractive to prospective new businesses as well as existing businesses.

Implementing a commuter tax could be a difficult process. As previously discussed, the City's Home Rule Charter allows the City Council to impose taxes and fees that are not expressly prohibited by the state constitution. The question of whether the constitutional prohibition on local income taxes applies to an employment tax for a fixed amount may have to be decided by the court system. The charter requires voter approval for some taxes and service charges, but it is unclear whether a tax on workers would fall in the category requiring voter approval.⁷⁶

In summary, a commuter tax is a decidedly mixed bag. It has significant implementation challenges that must be weighed against some major advantages. These include the potential to generate substantial revenue, a large portion of which would come from nonresidents who use the City's streets.

Road Use Charge

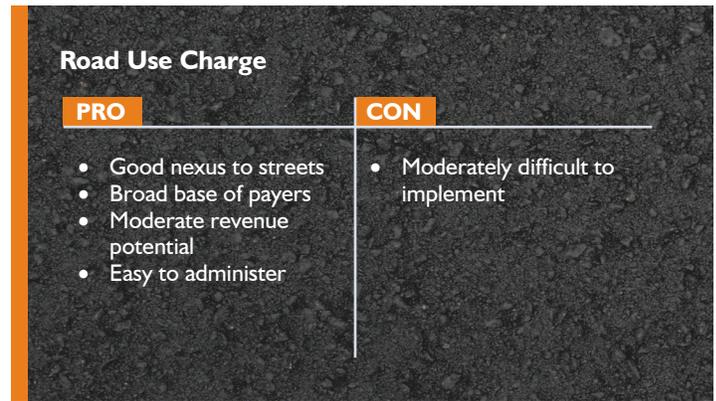
Municipalities in 26 states are authorized to levy local vehicle registration fees, with the revenue dedicated to street maintenance in most cases.⁷⁷ The Louisiana Constitution prohibits parishes and municipalities from imposing license fees on motor vehicles.⁷⁸ However, the Louisiana Supreme Court has ruled that a “road use charge” the City imposed in 1979 on all vehicles registered in New Orleans was constitutional.⁷⁹ Established by ordinance, the annual charge was \$50 for passenger cars and \$100 for trucks and vans. The charge appeared on property tax bills, and the City could use the revenue for any purpose.⁸⁰

In 1981, two years after the City imposed the charge, the state Supreme Court ruled that the charge was not a license fee to regulate activity or business, but a specific tax to generate revenue. As such, the court declared the charge was not subject to the constitutional provision banning a parish or municipality from imposing license fees on motor vehicles. However, the City Council had already repealed the charge in 1980.

In light of the ruling, it appears the City may be able to impose a new road use charge on vehicles and dedicate the revenue to streets. Because the charge would apply to all vehicles registered in New Orleans, it would generate revenue at a rate similar to the City’s brake tag program, which also applies to vehicles registered in New Orleans. The City’s share of brake tag fees – \$20 per passenger vehicle and \$35 for large trucks – totals about \$2.4 million a year.⁸¹ Thus, for example, road use charges set at the same levels as the brake tag fees would generate about \$2.4 million annually for street maintenance. Doubling the road use charges to \$40 for passenger vehicles and \$70 for trucks would yield about \$4.8 million.

Pros and cons. A road use charge would have a good nexus to streets, especially if the charge was higher for heavier vehicles that place greater stress on the street network. The charge would have a broad base of payers because it would apply to all vehicles registered in New Orleans. It would have moderate revenue-generating potential.

Implementing a road use charge would require the approval of the City Council and, possibly, voters. The City’s charter was amended to require voter approval for some charges in 1981, after the City had rescinded



the original road use charge. As previously discussed, the charter’s muddled language on fees and service charges makes it unclear whether voter approval would be needed for a road use charge. As a practical matter, any road use charge imposed without the consent of voters would probably face a legal challenge.

The City’s previous road use charge was placed on property tax bills. But this alone would not be sufficient to collect the charge because some vehicle owners, such as renters, do not pay property taxes. A better option would be to collect the road use charges when vehicle owners bring their vehicles in for brake tag inspections. This would simplify administering the road use charge. However, the higher fees collected at the time of vehicle inspections could prompt more motorists to skip the inspections.

Driver’s License Fee

Currently, the fees that the state charges for drivers’ licenses are divided among the state’s general fund, police pensions and a litter abatement program. For drivers who live in New Orleans and have Class E licenses to drive personal vehicles, the \$20.25 fee is allocated under state law as follows: \$11.25 to the state’s general fund; \$3.75 each to a City police pension fund and the Louisiana State Police Retirement System; and \$1.50 for litter abatement.⁸²

The City could ask the Legislature to increase the license fee for New Orleans residents and dedicate the additional revenue to local streets. The potential revenue is limited because drivers’ licenses are valid for up to six years before they have to be renewed. For example, the portion of the existing driver’s license fee that goes to the City police pension fund (\$3.75 for a regular license and \$15 for a commercial or chauffeurs’

Driver's License Fee	
PRO	CON
<ul style="list-style-type: none"> • Good nexus to streets • Broad base of payers • Easy to administer 	<ul style="list-style-type: none"> • Limited revenue potential • Difficult to implement

license) generated about \$200,000 in 2015.⁸³ In order to generate \$1 million, the additional fee for streets would have to be set at \$18.75 for a regular license and \$75 for a commercial or chauffeurs' license.

Pros and cons. There is a good nexus between a driver's license fee and street use. Those with commercial licenses to drive heavy trucks that place greater stress on streets could be charged higher fees. However, the nexus is limited by the fact that the fee cannot account for how much the licensee drives.

The fee would have a broad base of payers, encompassing all licensed drivers in New Orleans. It would be easy to administer through the state's existing framework for collecting driver's license fees. But because the fees are payable once every four to six years, the revenue-generating potential is limited. Another drawback is that the City cannot implement the fee on its own and would need the Legislature's approval.

Special Assessment Districts

About 30 New Orleans neighborhoods are designated in state law as special assessment districts to generate revenue for extra security patrols and other neighborhood improvements. Boards comprised of property owners govern the districts, and funding typically comes from voter-approved parcel fees.⁸⁴ State law specifies that the private patrols must supplement, not replace, policing services that the City provides.

The same framework could be used to provide funding for street repairs at the neighborhood level. In 2010, the Legislature created a special assessment district for streets in the Lakeview neighborhood in New Orleans.⁸⁵

As with added security patrols, a non-supplant clause requires any money the district generates for street repairs to be in addition to the normal maintenance and repaving work the City funds. However, Lakeview voters rejected a proposed \$150 parcel fee, and the district's governing board is dormant. The Legislature has created no other such districts.⁸⁶

Pros and Cons. With property owners agreeing to pay for repairs to the streets that they most frequently travel, a special assessment district for streets provides a nexus between the parcel fees and street use. The base of payers is narrow, but the fact that a majority of payers must approve the parcel fees mitigates this as a concern.

Implementing a street maintenance district would require several steps. First, the Legislature must establish the district.⁸⁷ Next, the City Council must place a parcel fee proposition on the ballot.⁸⁸ Finally, district voters must approve the fee. The multi-step implementation process hinges largely on whether there is support among district residents and property owners, to whom the City Council and legislators usually defer on enabling legislation for special districts.

Administrative costs and burdens would be minimal for a street maintenance district. The City already has a mechanism for collecting parcel fees on property tax bills, and the collection fee is relatively low – 1% of receipts.⁸⁹

However, the revenue-generating potential of a flat parcel fee is rather modest, limiting the magnitude of repairs that such a fee can fund. For instance, the rejected \$150 fee for the Lakeview district would have yielded about \$1 million a year.⁹⁰ That would have been enough to repave just a half-mile-long street segment in a district with roughly 80 miles of streets.⁹¹ At that

Special Assessment Districts (Funded by Parcel Fee)	
PRO	CON
<ul style="list-style-type: none"> • Good nexus to streets • Relatively easy to implement • Easy to administer 	<ul style="list-style-type: none"> • Limited base of payers • Limited revenue potential

 **In 2017, the City's street-related revenues are expected to net a total of \$52.5 million after subtracting collection and enforcement costs. Unfortunately, none of this revenue is invested back into the street network.**

level of funding, it would make more sense to focus on relatively minor repairs and maintenance, such as filling potholes throughout the district. Based on City estimates, \$1 million is enough to fund a year's worth of preventive maintenance on about 44 miles of streets, more than half of the district's streets.

One drawback to establishing individual street maintenance districts, each with its own parcel fee, is that it would begin to fragment the funding base for streets. This could make voters in the district less likely to support citywide street funding measures, hindering the City's efforts to take a holistic approach to street repairs.

THE ROAD AHEAD

There are a number of promising funding options that the City can pursue to help improve the condition of its streets. But first the City should take steps to ensure that all of its existing revenues dedicated to streets are, in fact, spent on streets. From 2010 to 2015, the City's Dedicated Street Revenue exceeded its general fund expenditures on streets, drainage and traffic signals. This suggests the City may have spent some of this revenue on other purposes. The City should implement budgeting and accounting procedures to ensure it spends its Dedicated Street Revenue on authorized purposes.

After making sure it is spending all dedicated revenues properly, the City should mine its budget for additional efficiencies that could free up dollars for streets. The general fund includes more than \$400 million in undedicated revenues that the City can spend on any purpose. Yet it allocates none of this discretionary money to fixing streets, which City officials acknowledge is a high priority among citizens.

The first place the City should look to find more money for streets is the rapidly growing pool of revenue from various fees, fines and taxes related to the street network. This includes revenue from traffic camera tickets, parking meters and brake tag fees. In 2017, these street-related revenues are expected to net a total of \$52.5 million after subtracting collection and enforcement costs. Un-

fortunately, none of this revenue is invested back into the street network. Instead, the City uses it to fund other areas of the budget. The City reinforced this practice when it increased parking meter rates and parking ticket fines in 2016, but did not increase funding for street maintenance. Similarly, the City's ongoing expansion of its traffic camera program is projected to yield a net increase of \$5 million in ticket revenue in 2017. However, none of this revenue is budgeted for streets.

The City should strongly consider allocating a portion of its street-related revenues to preventive maintenance. These revenues have grown rapidly in recent years, increasing by an annual average of 6.7% since 2009. But the City has invested none of this additional revenue back into the street network. At a minimum, it should direct future net increases in these revenues to streets.

There also may be opportunities to redirect local tax dollars to help maintain local streets. In *The \$1 Billion Question*, BGR highlighted several local tax dedications as examples of an ad hoc approach to taxation that can lead to a misalignment between tax allocations and the community's needs. These dedications include \$15 million a year from two, Legislature-imposed taxes for a Convention Center project that was canceled nearly a decade ago; a 1.75% hotel assessment to promote tourism imposed in 2014 without an assessment of competing needs; and a 1% hotel tax shared by the RTA and tourism entities that was imposed via a court settlement. Collectively, these local taxes – none of which received the approval of New Orleans voters – generate more than \$40 million a year. The mayor and the local legislative delegation should initiate a comprehensive reassessment of existing local tax dedications with an eye toward redirecting taxes to meet basic municipal needs, including streets.

Once public officials have taken steps to ensure existing revenues are deployed efficiently, there are several options to generate new funding for streets that deserve consideration. For instance, a local fuel tax has an excellent nexus to streets, a broad base of payers and the potential to generate substantial revenue. These characteristics have helped make fuel taxes the primary source

of funding for roads at the federal and state levels. The main drawback to a local fuel tax in New Orleans is that it would be difficult to implement, requiring an amendment to the state constitution to eliminate the prohibition on local fuel taxes. However, a state task force has recommended a major increase in transportation funding to address a backlog of state projects, and it identified a fuel tax increase as one of the most promising options. If the Legislature increases the state fuel tax, it could dedicate a portion to parishes for local streets.

Meanwhile, the City could implement some funding options on its own. One of the most promising of these options is a Transportation Utility Fee or TUF. As previously noted, TUFs have two advantages over property taxes as a funding mechanism for streets. First, a TUF that is based on how many vehicle trips a property generates has a much stronger nexus to street usage than property taxes. Second, TUFs have a broader base of payers because they apply to properties that are exempt from property taxes. These significant advantages might outweigh the difficulty the City could face in implementing a TUF.

CONCLUSION

The deplorable condition of the streets in New Orleans is a clear indication that the City needs to rethink its approach to funding street work and implement a more effective strategy. It has already made progress in this regard. The City has improved coordination between its public works department and the Sewerage & Water Board to avoid tearing up newly repaved streets to repair pipes buried beneath them. The City has also committed to using a pavement management plan that prioritizes repair work based on pavement conditions, predicted rate of deterioration, traffic volume and the cost-effectiveness of various treatments, among other factors. But this progress could be undercut without adequate funding for preventive maintenance. And this is one key area where the City continues to fall short.

The \$9.5 million for street maintenance in the City's 2017 operating budget is less than one-third of the \$30 million to \$35 million that the City itself estimates it needs to ensure streets do not deteriorate prematurely. As the City embarks on a massive road repair project, it is imperative that it find a recurring source of revenue to fully cover preventive maintenance costs for all of

those miles of newly repaved streets. Failure to do so would risk squandering the enormous capital investment the City is about to make.

In light of the steady increases in street-related revenues and in its general fund, the City has an obligation to look to existing revenues for street maintenance before seeking new funding sources. In addition, as BGR has emphasized in the past, a parishwide re-appraisal of existing tax dedications and how they correspond to basic infrastructure funding needs is long overdue. As demonstrated in this report, the necessary resources may already exist to fund street maintenance.

Recommendations

- The City should implement budgeting and accounting procedures to ensure that all revenues dedicated to streets and traffic signals are spent on those purposes.
- The City should identify recurring revenues to provide the \$30 million to \$35 million it needs each year for preventive street maintenance.
- The City should direct a portion of its existing street-related fees, fines and taxes to streets. At a minimum, future net increases in these revenues should go to streets.
- The mayor and the local legislative delegation should initiate a comprehensive reassessment of existing local tax dedications with an eye toward redirecting taxes to meet basic municipal needs, including streets.
- The City should consider implementing a Transportation Utility Fee to broaden the base of contributors to street funding and better calibrate those contributions to impacts on the street network.
- Any action by the Legislature to raise the state fuel tax should include a portion dedicated to local transportation infrastructure.
- The City Council should pursue a charter change clarifying the authority of, and process for, the City to impose fees and service charges.

END NOTES

1 Stantec Consulting Services, *City of New Orleans Pavement Management Analysis Draft Report*, August 2016, p. 4.6.

2 The Fix My Streets Financing Working Group is comprised of 13 members, including citizens, transportation experts, local businesspeople and public officials. The group began meeting in December 2015; no timeline has been set for issuing its recommendations.

3 City of New Orleans, “Joint DPW-SWB Capital Improvement Program,” October 2016, p. 25. This does not include \$241 million in FEMA funding for repairs to water, sewer and drainage pipes.

4 Stantec Consulting Services, *City of New Orleans Pavement Management Analysis Draft Report*, August 2016, p. 4.1.

5 Two of the five are former public housing sites that were demolished and redeveloped after the Hurricane Katrina disaster – B.W. Cooper and Desire. The other three are the Central Business District, City Park and West Lake Forest.

6 Stantec Consulting Services, *City of New Orleans Pavement Management Analysis Draft Report*, August 2016, p. 4.12.

The report estimates construction costs under this scenario at \$2.8 billion. The City estimates that soft costs, such as surveying, design work, geotechnical testing and project management combined with contingency costs for unforeseen circumstances would raise the total cost to about \$5 billion.

7 Ibid, p. 4.6. The report estimates 10-year preventive maintenance costs at \$265.8 million, or \$26.6 million a year. Adding in soft costs (10%) and contingency costs (20%), the City estimates the total cost at \$30 million to \$35 million.

8 City of New Orleans, “Joint DPW-SWB Capital Improvement Program,” October 2016, p. 25. This includes about \$40 million in bonds that voters authorized in April 2016 but that the City has yet to issue. It plans to do so in 2018.

9 The actual figure would likely be higher than that because additional streets would deteriorate to poor condition during the eight-year capital plan, raising the total repair costs.

10 The state fuel tax, which is 20 cents per gallon, generates about \$600 million a year. The state constitution dedicates the proceeds from at least 1 cent of the fuel tax to the Parish Transportation Fund for local street projects and public transit. See La. Const., Art. 7, Sec. 27(B). State law allocates this revenue to individual parishes based on population and the number of miles of roads under local control. See La. R.S. 48:756.

11 The City also receives payments from the Sewerage & Water Board to reimburse it for the cost of repairing cuts in streets to access subsurface infrastructure, such as water and sewer lines. The City places these payments in a special fund designated for repairing utility cuts. Because these funds cannot be used for general street maintenance or repairs, BGR is not including them in this report.

12 BGR calculation using figures from City budgets.

13 The 1991 ballot proposition for the City’s 1.9-mill property tax specified that the revenue must be used for “street and traffic control device maintenance.” See BGR, *Propositions on the July 13, 1991 Ballot*, June 1991, p. 7. State law specifies that fuel tax dedications must be used to (1) build and maintain roads, bridges and other transportation infrastructure, (2) maintain private driveways within the right of way of a parish-owned road when it serves a public purpose, (3) purchase equipment for road work, (4) pay for public transportation, or (5) perform maintenance work on state highways under certain conditions. See La. R.S. 48:753.

14 For instance, the City maintains separate funds outside the General Fund for property taxes dedicated to economic development and housing improvements.

15 The Government Finance Officers Association recommends segregating dedicated revenues to assist in determining compliance with finance-related laws, rules and regulations. See GFOA, “Best Practice: Using Fund Accounting Effectively,” adopted October 2012. Moreover, the Louisiana Attorney General has issued an opinion that if a local entity comingles revenue from the state fuel tax dedication with other local revenues, then all of the revenues are subject to the restricted uses of fuel tax dedications. See La. Atty.Gen. Op. No. 96-189.

16 City of New Orleans, “City-Wide Pavement Condition Assessment Results” presentation to the Fix My Streets Financing Working Group on August 20, 2016, p. 8.

17 BGR identified the funding options analyzed in this report by reviewing research on street funding, surveying other jurisdictions, and consulting City officials and citizen advocates for better streets.

18 See Government Finance Officers Association, “Best Practices: Establishing Government Charges and Fees,” February 2014, www.gfoa.org/establishing-government-charges-and-fees.

19 Bureau of Governmental Research, *Street Smarts: Maintaining and Managing New Orleans’ Road Network*, October 2008, p. 3.

20 BGR notes that the fact that a funding source has a nexus to a public purpose does not necessarily mean that it should be used solely for that purpose, especially if it could be better deployed elsewhere.

21 BGR, *The Nonprofit Margin: Addressing the Costs of the Nonprofit Exemption in New Orleans*, March 2011, p. 13.

22 See BGR, *Street Smarts*, pp. 10 and 11.

23 BGR calculation using data from City budgets. The 10 street-related revenue sources netted \$31.4 million in 2009. They are projected to net \$52.5 million in 2017, representing an increase of \$21.1 million.

24 BGR calculations using the U.S. Bureau of Labor Statistics’ inflation calculator (data.bls.gov/cgi-bin/cpicalc.pl).

- 25 The \$31.4 million in street-related revenues that the City netted in 2009 has an inflation-adjusted value of \$35.7 million in 2017. That is \$16.8 million less than the \$52.5 million that the City expects to receive in 2017.
- 26 The surplus was as of September 31, 2016. Ernest N. Morial New Orleans Exhibition Hall Authority, “Statement of Net Position September 2015 and 2016.”
- 27 Bureau of Governmental Research, *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense*, November 2015, p. 8
- 28 *Ibid.*, p. 10.
- 29 This is the east bank rate. The west bank millage rate is 154.36. Data is from City of New Orleans, 2017 Adopted Operating Budget, p. 59; and Office of the Legislative Auditor, 2017 Maximum Millage Report, Orleans Parish.
- 30 Orleans Parish Assessor’s Office, *Fact Sheet for Orleans Parish*, 2016.
- 31 The figures on properties that are completely tax exempt come from the assessor’s office. See Orleans Parish Assessor’s Office, *Fact Sheet for Orleans Parish*, 2016. According to 2015 data, the City has 8,567 parcels that are valued at or below the \$75,000 homestead exemption. See Louisiana Tax Commission, Annual Report, 2015, p. 44. Those parcels are exempt from paying ad valorem property taxes, except those taxes for police and fire that are not subject to the homestead exemption. See La. Const. Art. VI, Sec. 26(E).
- 32 BGR, *The Nonprofit Margin: Addressing the Costs of the Nonprofit Exemption in New Orleans*, March 2011.
- 33 This includes \$182.7 million in general sales taxes that the City collects and \$13.6 million in vehicle sales tax that the state collects and remits to the City. City of New Orleans, “2017 Annual Operating Budget,” p. 63.
- 34 An increase in the sales tax rate could reduce total sales, thereby reducing the amount of revenue each 0.25% tax increase would generate.
- 35 The PFM Group and The Caulfield Consulting Group, “City of New Orleans Financing Options for Street Repairs: Presentation to the Fix My Streets Financing Working Group,” November 29, 2016, p. 10.
- 36 The amount of additional revenue from a parking tax increase could vary depending upon whether parking operators raised fees to pass the tax on to patrons and the extent to which such an increase reduced demand for parking.
- 37 *Westminster Parking Corporation, et al. vs. City of New Orleans*, No. 87-7895 (Civ. Dist. Ct., Orleans Parish 1987).
- 38 La. Const. Art. 6, Sec. 29. The constitution limits the total local sales tax in a jurisdiction to 3%, barring the Legislature’s approval of a higher tax rate. At the time the City imposed its parking tax, the Legislature had authorized a total local sales tax of 5% in Orleans Parish. The parking tax, which was originally set at 10%, raised the total local tax on parking to 15%. Parking operators argued this amounted to an illegal sales tax because it exceeded the 5% Legislature-authorized cap.
- 39 See Donze, Frank, “Council raises CBD, Quarter meter rates to \$1,” *The Times-Picayune*, February 19, 1988.
- 40 Institute of Transportation Studies, “Promises and Pitfalls of Transportation Utility Fees,” July 2014.
- 41 The trip generation estimates are derived from the Institute of Transportation Engineers’ *Trip Generation Manual*. For example, a supermarket generates an estimated 9.5 trips per 1,000 square feet during a peak afternoon or evening hour compared to 1 trip for a single-family dwelling during the same time period.
- 42 The federal government might refuse to pay the fee. A city official in Medford, Oregon, told BGR that the federal government stopped paying the city’s TUF, asserting that it was a tax. On the other hand, a city official in Loveland, Colorado, told BGR that the federal government pays the city’s TUF.
- 43 State courts have struck down efforts to impose TUFs in cities in Idaho, Florida and Washington as unconstitutionally imposed taxes. Colorado’s Supreme Court, on the other hand, upheld a Fort Collins transportation fee, finding that the fee was reasonably designed to meet the overall cost of the city’s street maintenance program. Robert M. La Follette School of Public Affairs, University of Wisconsin-Madison, *Transportation Utility Fees: Possibilities for the City of Milwaukee*, 2007, pp. 3-4. See also Institute of Transportation Studies, “Promises and Pitfalls of Transportation Utility Fees,” pp. 20-22.
- 44 Home Rule Charter of the City of New Orleans, Section 3-101(2). The charter requires voter approval for a specific tax or service charge affecting real property or motor vehicles. The charter defines “a specific tax or service charge” as one that “is imposed as a fixed sum on each article of a class without regard to its value.” However, it excludes from the definition and voter approval a wide range of charges. It excludes “any charge (including but not limited to a sanitation charge), fee, license, permit or rate imposed or levied pursuant to the regulatory authority of the City of New Orleans in the operation of the City, its departments, boards, agencies and commissions (whether attached or unattached) including, but not limited to, the Sewerage and Water Board.” The charter language is confusing and has never been interpreted by the courts.
- 45 In 1985, 54% of voters rejected a proposed Sewerage & Water Board drainage fee. In 1986, 61% of voters rejected a proposed \$195 per-parcel fee for general City services. In 1998, 84% of voters rejected a parcel fee to boost the salaries of City and school workers and to fill gaps in the City’s budget. The fee, which would have raised an estimated \$50 million, would have been based on the size and use of the parcel. See Bureau of Governmental Research, *The Nonprofit Margin, Addressing the Costs of the Nonprofit Exemption in New Orleans*, March 2011, p. 14.
- 46 Institute of Transportation Engineers, *Trip Generation*

Manual, 9th Edition, 2012. The trips for both the car wash and convenience store would be reduced by up to 60% to account for the fact that such businesses are often not the primary destination of motorists who stop by while on their way to someplace else.

47 Portland Bureau of Transportation, “Oregon cities with street fees,” www.portlandoregon.gov/transportation/article/423038.

48 City of Austin, Texas, “2016/2017 Austin, TX, Approved Budget, Volume One”, p. 323.

49 BGR, *The Nonprofit Margin: Addressing the Costs of the Nonprofit Exemption in New Orleans*, March 2011.

50 BGR, *Beneath the Surface, A Primer on Stormwater Fees in New Orleans*, February 2017.

51 The fees also could be placed on property tax bills paid by the property owner. BGR recommended this approach if the City pursues a drainage fee, in part, because the property owner is in the best position to take steps to reduce stormwater runoff. See BGR, *Beneath the Surface: A Primer on Stormwater Fees in New Orleans*, February 2017, p. 20. But when it come to a TUF, the occupant bears more responsibility for how much traffic the property generates.

52 See BGR, *Beneath the Surface: A Primer on Stormwater Fees in New Orleans*, February 2017.

53 La. R.S. 47:711 and La. R.S. 47:820.1(A).

54 La. Const. Art. 7, Sec. 4(C).

55 American Petroleum Institute, “State Motor Fuel Taxes, Rates Effective 10/1/2016,” www.api.org/~media/Files/Statistics/State-Motor-Fuel-Taxes-Report-Oct-2016.pdf.

56 Information on local fuel taxes in Oregon, Alabama and Illinois is from the American Petroleum Institute report cited above.

57 Florida Department of Revenue, “Revised 2016 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates,” pp. 2-3. http://dor.myflorida.com/dor/tips/pdf/15b05-02_chart.pdf.

58 La. Const. Art. 7, Sec. 4(C).

59 The calculation is based on U.S. Census Bureau estimates of the populations of New Orleans (391,495) and the state (4,681,666) for July 1, 2016.

60 The nexus to streets for fuel taxes has a minor limitation. The amount of fuel a vehicle consumes is only a rough indicator of miles driven. While two vehicles of similar size and weight place the same strains on the road network, they can vary in fuel consumption and, hence, the amount of taxes they generate to maintain that network. The disparities are likely to increase as electric and hybrid vehicle technologies advance.

61 The state collects fuel taxes from wholesalers, who subsequently pass the cost on to consumers at the pump.

62 La. Legis., House Bill 578, 2016 Reg. Sess.

63 The Governor’s Task Force on Transportation Infrastructure Investment, *Report to the Governor: Sustainable Solutions for Multimodal Transportation Infrastructure in Louisiana*, December 2016.

64 La. Const. Art. 7, Sec. 27(B).

65 American Petroleum Institute, “State Motor Fuel Taxes: Rates Effective 1/1/2017,” p. 2.

66 BGR calculation using Bureau of Labor Statistics inflation calculator (data.bls.gov/cgi-bin/cpicalc.pl).

67 The figures are based on national averages of 11,818 miles driven annually per vehicle and 20.4 miles per gallon. At those rates, the average vehicle consumes about 579 gallons of fuel per year. Thus, a tax increase of 5 cents per gallon would cost the driver \$28.95 per year, or \$2.41 a month.

68 The Tax Foundation, “Local Income Taxes: City- and County-Level Income and Wage Taxes Continue to Wane,” August 31, 2011.

69 La. Const., Art. 7, Sec. 4(C).

70 New Orleans City Council, Ordinance No. 11,416, adopted October 2, 1986.

71 *City of New Orleans v. Scramuzza*, 507 So. 2d 215 (La. 1987). The City had asserted that the constitutional prohibition on income taxes only applied to complex, progressive taxes levied on net income, like the income tax structures used by the state and federal governments. According to the City, the “earnings tax” was constitutional because it was not a progressive tax but a flat percentage applied to a worker’s gross income, as opposed to net income. The City also argued that the constitutional prohibition on income taxes did not apply because the tax was limited to earnings and did not include other sources of income, such as capital gains and interest income.

72 See www.denvergov.org/Portals/571/documents/TaxGuide/Occupational%20Privilege%20Tax.htm.

73 *City County of Denver v. Sweet*, 138 Colo. 41, 329 P.2d 441 (1958). The court ruled that a constitutional provision authorizing the General Assembly to levy an income tax on behalf of any political subdivision in the state prevents political subdivisions from doing so on their own.

74 See *Denver v. Duffy Storage and Moving Co.*, 450 P. 2d 339 (Colo. 1969), and *Johnson v. City and County of Denver*, 527 P. 2d 883 (Colo. 1974). The court ruled that the occupancy privilege tax is not an income tax, in part, because it is not graduated or proportional to an employee’s income.

75 U.S. Census Bureau, *American Community Survey, 2010-2012 estimates*.

76 Home Rule Charter of the City of New Orleans, Section 3-101(2). The charter requires voter approval for a specific tax or service charge affecting real property or motor vehicles. The charter defines “a specific tax or service charge” as one that “is imposed as a fixed sum on each article of a class without regard to its value.” However, it excludes from the

definition and voter approval a wide range of charges. It excludes “any charge (including but not limited to a sanitation charge), fee, license, permit or rate imposed or levied pursuant to the regulatory authority of the City of New Orleans in the operation of the City, its departments, boards, agencies and commissions (whether attached or unattached) including, but not limited to, the Sewerage and Water Board.” The charter language is confusing and has never been interpreted by the courts.

77 National League of Cities, *Paying for Local Infrastructure in a New Era of Federalism: A State-by-State Analysis*, 2016, p. 10.

78 La. Const., Art. 7, Sec. 5.

79 *Acorn v. City of New Orleans*, 407 So. 2d 1225 (La. 1981).

80 City of New Orleans Ordinance No. 7011, M.C.S., passed on November 2, 1978, and signed by the mayor on January 2, 1979.

81 The Legislature grandfathered the City’s vehicle inspection program when it created a statewide program in the 1960s. The City authorizes certain private businesses to conduct safety inspections on vehicles registered in New Orleans. The annual inspection fees range from \$25 for passenger vehicles to \$40 for large trucks. The inspection station retains \$5 from each fee and remits the remainder to the City. City ordinance exempts commercial vehicles that are engaged in interstate commerce and subject to federal safety regulations, vehicles registered as antique and farm tractors. City of New Orleans Code of Ordinances, Sec. 154-1304. In estimating the amount of revenue the fee generates, BGR used the average annual revenue from brake tags instead of the City’s 2017 projection because of a change in the City’s inspection program implemented in 2016. Owners of vehicles that are 10 years old or less and weigh 6,000 pounds or less can now obtain two-year vehicle inspection certificates provided they pay twice the annual inspection fee. As a result of this change, brake tag fee revenue was higher than normal in 2016 and is projected to be lower than normal in 2017. The average for these two years is projected to be in line with the \$2.4 million annual average the City received before the 2016 change.

82 La. R.S. 32:412 A(6).

83 Police Pension Fund of the City of New Orleans, financial statement for the year ended December 31, 2015, p. 11.

84 Two districts receive property taxes; the rest receive flat parcel fees.

85 La. R.S. 33:9080.6.

86 District voters defeated the proposed parcel fee by a 57-43 margin in October 2011. Information from the Louisiana Secretary of State’s website.

87 For an example of what the legislation might look like, see La. R.S. 33:9080.6, which established the Lakeview Street Maintenance District.

88 Like a neighborhood security district, a street maintenance district would not have taxing authority and would have to

rely on the City’s taxing authority to receive funding through a parcel fee. See RS 33:9091.1 (F).

89 Information provided by the City of New Orleans.

90 See fiscal note for La. Acts 2010, Reg. Sess., No. 635.

91 The City estimates that repaving a one-mile street segment costs about \$2.25 million. BGR estimated the number of miles in the Lakeview Street Maintenance District using the Google mapping function.



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