Resolution No. 2018-76

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA SUBMITTING TO THE VOTERS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION AN INITIATIVE ORDINANCE INCREASING AND EXTENDING THE TRANSACTIONS (“SALES”) AND USE TAX, REQUESTING COUNTY ELECTIONS OFFICIALS TO CONDUCT THE ELECTION, AND REQUESTING CONSOLIDATION OF THE ELECTION

WHEREAS, by its Resolution No. 2018-39, adopted on May 1, 2018, the City Council called a General Municipal Election for November 6, 2018, a regularly scheduled general election for members of the City Council, and requested that such election be conducted by Monterey County elections officials and consolidated with the statewide general election to be held on that date; and

WHEREAS, pursuant to authority provided by statute, a petition has been filed with the City Council of the City of Marina, California, signed by more than ten percent (10%) of the number of registered voters of the City, to submit to the qualified electors a proposed ordinance relating to increasing and extending the Transactions (Sales) and Use Tax, a general tax; and

WHEREAS, the Monterey County Elections Department examined the petition and the records of registration and ascertained that the petition is signed by the requisite number of voters to qualify to be placed on the ballot, and has so certified; and

WHEREAS, the Deputy City Clerk/Elections Official examined the records of registration and ascertained that, pursuant to Elections Code Section 9215, the petition is signed by the requisite number of voters, and has been so certified; and

WHEREAS, as required by law, the City Council desires to submit the proposed ordinance to the voters at the November 6, 2018 election; and

WHEREAS, pursuant to Elections Code Section 10002, the City Council may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election; and

WHEREAS, the resolution of the governing body of the city or district shall specify the services requested; and

WHEREAS, pursuant to Elections Code Section 10002, the city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10400, such election for cities and special districts may be either completely or partially consolidated; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, various district, county, state and other political subdivision elections may be or have been called to be held on November 6, 2018; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the following measure be submitted to the voters at the November 6, 2018 General Municipal Election and that such election be consolidated with any and all elections also called to be held on November 6, 2018, insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of Marina, and the City of Marina requests the Board of Supervisors of the County of Monterey to order such consolidation under Elections Code Section 10400 and 10403

To sustain and improve city services such as fire, police, road repairs & maintenance, shall the ordinance increasing the rate of the City of Marina's existing transactions & use ("sales") tax from 1% to 1.5% estimated to generate approximately $4,890,000 annually as compared with $3,260,000 for the current tax and extending the expiration date for the tax to March 31, 2034 be adopted?

YES _________

NO _________

BE IT FURTHER RESOLVED AND ORDERED that pursuant to Elections Code Section 10002 the City Council hereby requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full, and

BE IT FURTHER RESOLVED AND ORDERED THAT Monterey County Elections Department is requested to print is requested to print the Ordinance attached hereto as Exhibit 1 in the Voter Guide for the November 6 2018 election. Cost of printing and distribution of the measure text will be paid for by the City of Marina.

In addition, the full measure text will be available at the following web site address: www.ci.marina.ca.us.

BE IT FURTHER RESOLVED AND ORDERED THAT

1. Voter approval requirement is a majority.

2. Arguments for and against the ballot measure may be filed consistent with Elections Code Section 9282, *et seq.* The last day for submission of direct arguments for or against the ballot measure shall be by 5:00 P.M. on August 16, 2018. Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.

3. Rebuttals to arguments for and against the ballot measure may be filed. The last day for submission of rebuttal arguments for or against the ballot measure shall be by 5:00 P.M. on August 23, 2018. Rebuttal arguments shall not exceed two hundred-fifty words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.

4. Pursuant to Election Code Section 9280, the City Council hereby directs the City Attorney to prepare by August 16, 2018, an impartial analysis of the ballot measure.

5. The Deputy City Clerk hereby is designated as the Elections Official and is directed to do all things required by law to effectuate the Regular Municipal Election and to present the ballot measure submitted herein to the electorate, including, but not limited to, required publications, postings, noticing and filings. Further, the Deputy City Clerk is hereby directed to forward a copy of this resolution to the City Attorney for preparation of impartial analyses of the ballot measure submitted. Pursuant to Election Code section 9285, when the Deputy City Clerk has selected the arguments for and against the ballot measure, which will be printed and distributed to voters, the Deputy City Clerk shall send copies of the arguments in favor of the ballot measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

6. The Deputy City Clerk is hereby directed to submit forthwith a certified copy of this resolution to the Board of Supervisors, to the Registrar of Voters and to the County Clerk of the County of Monterey. The Deputy City Clerk shall certify as to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

7. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15378(a), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt under the definition of "Project" in Section 15378(b)(3) in that it concerns general policy and procedure making. The Council therefore directs that a Notice of Exemption be filed.

PASSED AND ADOPTED by the City Council of the City of Marina this 3[RD] day of July 2018, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Morton, Brown, Delgado

NOES, COUNCIL MEMBERS: O'Connell

ABSTENTIONS, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

SIGNED: ___________________________
Bruce C. Delgado, Mayor

ATTEST: _________________________
Anita Shepherd-Sharp, Deputy City Clerk

Exhibit 1 to Resolution

[Ordinance]

June 29, 2018 Item No.**11b**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 3, 2018

INITIATIVE ORDINANCE INCREASING AND EXTENDING THE TRANSACTIONS AND USE (“SALES”) TAX

RECOMMENDATION:

It is recommended that the City Council:

1. Receive Certificate of Sufficiency of Initiative Petition with respect to initiative ordinance increasing and extending the transactions and use tax (Exhibit D).

2. Take one of the following actions:

   (a) Adopt Resolution of the City Council of the City of Marina Submitting to the Voters at the November 6, 2018 General Municipal Election an Initiative Ordinance Increasing and Extending the Transactions and Use (“Sales”) Tax Requesting County Elections Officials to Conduct the Election, and Requesting Consolidation of the Election (Exhibit E); or

   (b) Adopt Resolution of the City Council of the City of Marina Ordering a Report Pursuant to Elections Code Section 9212 Regarding an Initiative Ordinance Increasing and Extending the Transactions and Use (“Sales”) Tax (Exhibit F).

3. Consider Introduction of Initiative Ordinance (Exhibit A).

BACKGROUND:

On May 31, 2018, a circulated initiative petition to increase and extend the Transactions and Use (“Sales”) Tax was filed with the Deputy City Clerk, in her role as the City’s Election Official. A copy of the Ordinance proposed by the petition is attached hereto as Exhibit A. A copy of the text of the circulated petition (including the title and summary prepared by the City Attorney prior to circulation) is attached hereto as Exhibit B.

The petition included 1,860 signatures. In order to qualify, the petition must be signed by not less than 10 percent of the voters of the City, according to the last report of registration by the county elections official to the Secretary of State. There are 10,171 such voters, so the petition requires 1,017 valid signatures to qualify.

The Deputy City Clerk submitted the petition to the Monterey County Registrar of Voters to conduct a signature verification using a sampling method. On June 22, 2018 the Registrar certified that, based on the sample, the petition was projected to have 1,349 valid signatures. The certification is attached hereto as Exhibit C. Because this “sample count” exceeds 110% of the required number of qualified signatures, the Deputy City Clerk is required by law to certify the results of the examination to the City Council at its next regular meeting. Tonight’s meeting is the next regular meeting of the City Council following the June 22, 2018 certification by the Registrar. A copy of the Deputy City Clerk’s certification is attached hereto as Exhibit D.

ANALYSIS:

Elections Code §9215 provides that, upon presentation of a certification of a petition, the City Council must do one of the following:

"(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Submit the ordinance, without alteration, to the voters....

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b)."

The California Constitution requires that ordinances imposing a tax be approved by the voters. This initiative ordinance imposes a tax. Therefore, it is not recommended that the City Council adopt this ordinance without submitting it to the voters.

Attached as Exhibit E is a resolution that would order that the initiative ordinance be placed on the November 6, 2018 ballot. Approval of the resolution requires a 2/3 vote (at least four "yes" votes) of the Council as it pertains to a general tax.

Attached as Exhibit F is a resolution that would order a report. If the Council orders a report, it must be returned to the City Council by staff no later than 30 days after tonight's meeting. The Council can change the list of matters that the report covers.

Section 7285.9 of the Revenue & Taxation Code requires that any ordinance proposing a general transactions and use tax be approved by a two-thirds vote of all members of the City Council. The state will not administer a voter-approved transactions and use tax unless the tax ordinance itself is approved in this manner. Therefore, the City Council may want to introduce the ordinance at this meeting and may want to adopt the ordinance at a future meeting.

FISCAL IMPACT:
The estimated cost for the signature verification of the initiative by the Monterey County Registrar of Voters is to be determined. The estimated election for the consolidated general municipal election is estimated by the County as between $61,026 and $81,368.

CONCLUSION:
This request is submitted for City Council consideration and action.

Respectfully submitted,

s/Robert W. Rathie

REVIEWED/CONCUR:

s/Robert R. Wellington
City Attorney

Layne Long
City Manager
City of Marina

EXHIBIT A

[Initiative Ordinance]

Initiative Measure to be Submitted Directly to the Voters

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MARINA

INCREASE IN THE CITY'S TRANSACTION AND USE TAX RATE FROM ONE PERCENT (1%) TO ONE AND A HALF PERCENT (1.5%), AND SETTING THE TERMINATION DATE OF THE ONE AND A HALF (1.5%) TAX TO BE MARCH 31, 2034, AND TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION IN ORDER TO CONTINUE PRESERVING FUNDS FOR GENERAL CITY SERVICES

THE PEOPLE OF THE CITY OF MARINA DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendment. Chapter 3.06 of the City of Marina's Municipal Code is hereby amended to read as follows:

3.06.010 Title.

This chapter shall be known as the city of Marina transaction and use tax ordinance. The city of Marina hereinafter shall be called "city." This chapter shall be applicable in the incorporated territory of the city. (Ord. 2010-03 § 1 (part), 2010)

3.06.020 Operative date.

"Operative date" means the first day of the first calendar quarter commencing more than one hundred ten days after the adoption of the ordinance codified in this chapter by a majority of the voters of the city voting thereon at the election to be held on November 6, 2018.

3.06.030 Purpose.

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

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2, which authorizes the city to adopt this tax chapter if a two-thirds majority of the city council voted to adopt the ordinance codified in this chapter placing the measure on the ballot and a majority of the qualified electors voting on the measure voted to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax chapter that incorporates provisions identical to those of the sales and use tax law of the state of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

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

D. To adopt a retail transactions and use tax chapter that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. (Ord. 2010-03 § 1 (part), 2010)

3.06.040 Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided, that if the city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. (Ord. 2010-03 § 1 (part), 2010)

3.06.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one and one half percent (1.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.

3.06.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 2010-03 § 1 (part), 2010)

3.06.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of one and one half percent (1.5%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.06.080 Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein. (Ord. 2010-03 § 1 (part), 2010)

3.06.090 Limitations on adoption of state law and collection of use taxes.

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

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

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

2. The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.

3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property, which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "city" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203. (Ord. 2010-03 § 1 (part), 2010)

3.06.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter. (Ord. 2010-03 § 1 (part), 2010)

3.06.110 Exemptions and exclusions.

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

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

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

2. Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection, delivery to a point outside the city shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

5. For the purposes of subsections (B)(3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the state of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.

5. For the purposes of subsections (C)(3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subsection (C)(7) of this section, a retailer engaged in business in the city shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the city in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the city or through any representative, agent, canvasser, solicitor, subsidiary, or person in the city under the authority of the retailer.

7. "A retailer engaged in business in the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the city.

D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax. (Ord. 2010-03 § 1 (part), 2010)

3.06.120 Amendments.

All amendments subsequent to the effective date of the ordinance codified in this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. (Ord. 2010-03 § 1 (part), 2010)

3.06.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer of the state or the city, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 2010-03 § 1 (part), 2010)

3.06.140 Use of tax proceeds.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into the city of Marina general fund, and may be used for unrestricted general revenue purposes as designated by the City Council. (Ord. 2010-03 § 1 (part), 2010)

3.06.150 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 2010-03 § 1 (part), 2010)

3.06.160 Effective date.

This chapter relates to the levying and collecting of the city transactions and use taxes and, following its submission to the City Council by a petition of the voters filed with the City Clerk, and after being signed by not less than the number of voters specified in California Elections Code Section 9215, and its placement on the ballot, shall become effective immediately upon the approval of the tax imposed hereunder by a majority of the voters of the city voting thereon at the election to be held on November 6, 2018. The "operative date" of the tax imposed hereunder shall be as provided in Section 3.06.020. (Ord. 2010-03 § 1 (part), 2010)

3.06.170 Termination date.

The authority to levy the tax imposed by this chapter shall expire on March 31, 2034, fifteen years following the date it is first imposed unless the city council determines that the levy and collection of the tax is no longer necessary for the purposes for which the tax is imposed and suspends or terminates the imposition of the tax prior to that date. (Ord. 2014-04 § 1, 2014: Ord. 2010-03 § 1 (part), 2010)

Section 2. Approval by the Voters. This Ordinance shall be submitted to the voters at an election to be held on November 6, 2018 and shall not be effective until so approved. If approved, the existing tax imposed by Chapter 3.06 of the City of Marina Municipal Code, as amended by the November 4, 2014 passage of Measure F, will continue until replaced by the tax proposed in the initiative on the operative date.

Section 3. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. Certification. Upon approval by the voters, the Deputy City Clerk shall certify the passage of this Ordinance; and within fifteen days the Deputy City Clerk shall cause it to be posted in the three (3) public places designated by the City Council.

APPROVED BY THE FOLLOWING VOTE of the People of the City of Marina on November 6, 2018.

YES: ________

NO: ________

EXHIBIT B

[Petition Text]

RECEIVED

FEB 16 2018

BY:

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear heron of their intention to circulate the petition within the City of Marina for the purpose of increasing the rate of the Transaction and Use Tax within the City of Marina from one percent (1%) or one cent for every dollar spent on transactions subject to the Transaction and Use Tax to one and a half percent (1.5%) or one and a half cents for every dollar spent on transactions subject to the Transaction and Use Tax.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

To maintain current levels of police and fire protection, road maintenance, parks, and senior and recreation services, our city must grow its tax base AND generate revenues faster until such a time as we have a mature redeveloped downtown that will bring business to Marina to make our city economically sustainable.

Our city has the following immediate and ongoing funding needs:

- Investing a minimum of $2.5 million per year on road repair and maintenance just to stop our roads from deteriorating.
- Providing adequate fire protection and first response, we need to add a second engine company to our fire department at a cost of $965,000 per year.
- Updating our city parks at a cost of hundreds of thousands to millions of dollars.
- Removing abandoned buildings including those nearest the high school.

Neighboring city voters have already approved sales tax measures such as we are proposing that allow them to provide needed community services.

In addition to immediate funding needs, the city needs to invest in our long-term needs, such as:

- Enhancing our downtown to make it more walkable, people friendly, and to attract more business which in turn will increase revenues for city services.
- Protecting our drinking water, improving our access to beaches, and preserving our beautiful coastline.
- Insuring Marina is well represented addressing regional challenges such as affordable housing.

This sales tax will generate approximately $1.5 million per year. It is a temporary measure intended to support and expand current city services to desired levels as well as to position Marina to take advantage of opportunities to improve the lives of Marina residents.

We, the undersigned, request that you prepare title and summary of the proposed Initiative.

Adam Urrutia [signature] 3273 Michael Drive, Marina, CA 93933

Bruce Delgado [signature] 3037 Vaughan Ave MARINA CA 93933

Jane Parker [signature] 2014 Kennedy Ct., Marina 93933

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

PROPOSED TRANSACTIONS (SALES) AND USE TAX INCREASE AND EXTENSION

BACKGROUND. In 2010, Marina voters approved Measure M, adopting a one percent (1.0%) transactions and use tax. This type of tax, commonly referred to as a "local sales tax," is generally collected along with the statewide sales and use tax. With certain exceptions, a transactions and use tax is imposed upon the sale of all tangible personal property sold at retail within the City, and on the storage, use or other consumption of tangible personal property purchased from any retailer. Taxes on motor vehicle purchases apply based on the location for which the vehicle is first registered. These taxes are administered by the State Board of Equalization.

The tax imposed by Measure M was to have expired on March 31, 2016. However, in 2014 Marina voters approved Measure F, which extended the City's authority to levy the 1.0% Measure M tax until March 31, 2026. The present tax is the equivalent of a 1¢ tax on an item that costs a dollar. Proceeds of the tax can be used for any municipal purpose.

The current sales and use tax rate in the Marina (including both statewide taxes and local taxes, such as the Measure M tax and county transactions and use taxes) is 8.75%

THE INITIATIVE. If approved by a majority of Marina voters this measure would increase the rate of the existing Marina Transactions and Use Tax from one percent (1.0%) to one and a half percent (1.5%) and extend the authority to levy the tax until March 31, 2034. Accordingly, this measure would increase the combined state and local tax rate in Marina from 8.75% to 9.25%. The revenue generated from the tax would continue to be deposited in the City's general fund.

MEANING OF "YES" AND "NO" VOTES. A "yes" vote supports adoption of the tax increase and extension. A "no" vote opposes it. A simple majority of votes will pass the measure. If this measure is defeated, the 1.0% transactions and use tax imposed by Measure M will remain in effect until March 31, 2026.

Robert R. Wellington

ROBERT R. WELLINGTON
CITY ATTORNEY

Dated: February 26, 2018

EXHIBIT C

[County Certification]

MONTEREY COUNTY ELECTIONS

1441 Schilling Place-North Building
Salinas, CA 93901

PO Box 4400
Salinas, CA 93912

831-796-1499 Phone
831-755-5485 Fax

www.MontereyCountyElections.us

elections@co.monterey.ca.us

Claudio Valenzuela
Registrar of Voters

Gina Martinez
Assistant Registrar of Voters

Certificate to Initiative

WHEREAS, City of Marina Ballot Initiative, Proposed Transactions (Sales) and Use Tax Increase and Extension, was filed in the office of the Marina City Clerk on May 30, 2018 and transferred to Elections for signature verification on June 4, 2018.

WHEREAS, the petition consists of 158 sections and 1,860 signatures;

WHEREAS, each section contains signatures purporting to be the signatures of qualified Electors of this county; that attached to each petition at the time it was filed was an affidavit purporting to be the affidavit of the persons who solicited the signatures, and containing the dates between which the purported qualified electors signed the petition; that the affiant stated his or her own qualifications, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

WHEREAS, pursuant to Elections Code § 9115, of the 1,860 signatures submitted, Elections verified a random sampling of 500 signatures by examining the records of registration of this County, current and in effect at the respected purported dates of such signing, to determine what number of qualified electors signed the petition;

WHEREAS, Elections Code § 9215 provides that the minimum number of signatures required for an initiative petition submitted to the City is not less than 10% of the voters in the City, according to the last report of registration by the County Elections Official to the Secretary of State pursuant to Section 2187, and there are 10,171 voters in the City of Marina as of the report of registration at the time of publication of the notice of intention.

WHEREAS, of the 500 signatures verified in the random sampling, 379 were deemed valid, 121 signatures were found not sufficient, 6 of which were not sufficient because of duplicate signature records wherein voters signed the petition more than once.

WHEREAS, the projected number of valid signatures on said petition is 1,349 signatures or 13.2% of the registered voters in the City of Marina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 22nd Day of June 2018.

Claudio Valenzuela, Registrar of Voters
County of Monterey

EXHIBIT D

CITY OF MARINA

CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION

I, Anita Shepherd-Sharp, Deputy City Clerk of the City of Marina, County of Monterey, State of California, hereby certify:

That an initiative to allow increasing and extending the Transaction and Use Tax was filed with the City Clerk's office on May 31, 2018;

That each section contains signatures purporting to be signatures of qualified electors of the City of Marina, California;

That attached to the petition, at the time it was filed, was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the qualified electors signed the petition;

That after the proponents filed the petition, and based on the County of Monterey Registrar of Voters' "Certificate of Initiative Petition," (attached) I have determined the following facts regarding the petition:

Total number of signatures required to qualify petition:	1,017
Total number of signatures filed by proponent:	1,860
Total number of signatures verified using random sampling:	500
Total projected number of signatures found sufficient:	1,349
Total number of signatures found insufficient:	121

Based on the above, the petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Marina this ____ day of June 2018.

Anita Shepherd-Sharp
Deputy City Clerk/Elections Official
City of Marina

Exhibit 1 to Resolution

[Ordinance]

EXHIBIT F

Resolution No. 2018 -____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA ORDERING A REPORT PURSUANT TO ELECTIONS CODE SECTION 9212 REGARDING AN INITIATIVE ORDIANANCE INCREASING AND EXTENDING THE TRANSACTIONS ("SALES") AND USE TAX

WHEREAS, a General Municipal Election for Tuesday, November 6, 2018, has been called by Resolution 2018-39 adopted on May 1, 2018; and

WHEREAS, the Deputy City Clerk, as the Elections Official, has caused the examination of the signatures on a petition proposing an initiative ordinance increasing and extending the Transactions ("Sales") and Use Tax and has certified to the City Council that said petition included the number of signatures required by Elections Code Section 9215; and

WHEREAS, the City Council desires that a report pursuant to Elections Code section 9212 be prepared relating to the proposed ordinance, in accordance with subsection (c) of Elections Code section 9215.

NOW, THEREFORE, the City Council of the City of Marina, California does resolve, declare, determine and order as follows:

Section 1. That, pursuant to section 9212 of the Elections Code, and in accordance with subsection (c) of section 9215 of the Elections Code, the City Manager is directed to prepare a report on the proposed initiative ordinance. The report shall be presented to the City Council by August 2, 2018, but in no event later than 30 days after the City Clerk has certified the sufficiency of the petition.

Section 2. The report shall cover _________.

Section 3. That the Deputy City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Marina this ___ day of _______ 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

SIGNED: ______________________________
Bruce C. Delgado, Mayor

ATTEST: ______________________________
Anita Shepherd-Sharp, Deputy City Clerk