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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 3273 Michael Drive, Marina, CA 93933

Bruce Delgado 3037 Vaughan Ave MARINA CA 93933

Jane Parker Jane B Parker 2014 Kennedy Ct., Marina 93933

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: ________