CITY COUNCIL OF THE CITY OF NOVATO

RESOLUTION NO. 2020-054

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NOVATO APPROVING AN ORDINANCE TO BE SUBMITTED TO THE VOTERS OF THE CITY TO INCREASE THE TRANSIENT OCCUPANCY TAX BY 2%; FINDING THAT THE ORDINANCE AND ADOPTION OF THIS RESOLUTION ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTIONS 15060(c)(3) and 15378(b)(4); CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2020; REQUESTING THE ASSISTANCE OF THE COUNTY OF MARIN IN CONNECTION WITH THAT ELECTION; REQUESTING CONSOLIDATION OF THAT ELECTION WITH THE STATEWIDE GENERAL ELECTION HELD ON THAT DATE; AND AUTHORIZING THE CITY CLERK TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION SUBMITTING TO THE VOTERS THE QUESTION RELATING TO THE INCREASE OF THE TRANSIENT OCCUPANCY TAX BY 2%.

WHEREAS, Novato's hotel room tax - paid only by hotel and lodging guests - has not changed since 1997 and the ordinance imposing that tax needs to be updated to provide greater financial security to the City on a going-forward basis. The City is proposing a ballot measure to increase that hotel room tax (also called a "transient occupancy tax") by 2%; and

WHEREAS, this type of tax is not a property tax or a tax on Novato residents who are not hotel or lodging guests; and

WHEREAS, additional locally-controlled funding is necessary to maintain current levels of city services, including public safety services so Novato is prepared for any future emergency; and

WHEREAS, the City of Novato, must be able to be self-reliant during difficult times and maintain its disaster response, 9-1-1 emergency response, neighborhood police patrols, potholes and streets, ability to keep public areas safe, clear and healthy, support of the business community, and other services offered to its citizens; and

WHEREAS, all money raised by this proposed measure will be used for and by the City of Novato, giving the City local control over local funding and no funds can be taken by Sacramento; and

WHEREAS, the City Council proposes the adoption of an Ordinance amending the City's Municipal Code increasing the transient occupancy tax as set forth below and desires to submit said tax increase as a measure to be voted upon at an upcoming election;

WHEREAS, it is desirable that a general municipal election be called for the purposes of permitting the City's voters to determine whether the increase in the transient occupancy tax should be adopted; and

WHEREAS, pursuant to Government Code Section 53724, the City Council

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desires to submit the transient occupancy tax ordinance to qualified electors of the City at the next statewide general municipal election on November 3, 2020; and

WHEREAS, on July 28, 2020, the City Council approved this Ordinance by a unanimous vote which satisfies Government Code Section 53724's 2/3rd vote requirement; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4), the Council's approval of this Ordinance as a government funding mechanism is not a project subject to the requirements of CEQA. Prior to commencement of any project that may result from the expenditure of revenues from this tax increase, any necessary environmental review required by CEQA shall be completed. In addition, pursuant to CEQA Guidelines section 15060(c)(3) and 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project; and

WHEREAS, the City Council is authorized by statute (Elections Code section 9222) to submit the proposed Transient Occupancy Tax Increase Ordinance to the voters.

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

Section 1. Call for Election. Pursuant to California Elections Code Section 9222, the City Council hereby calls a general election for Tuesday, November 3, 2020, (the "Election") at which it shall submit to the qualified voters of the City of Novato the Transient Occupancy Tax Increase Ordinance ("Ordinance"), a measure that, if approved, would increase the City of Novato's transient occupancy tax from 10% to 12% of the rents charged to hotel and lodging guests. This measure shall be designated by letter by the Elections Department of the County of Marin.

Section 2. Ballot Language. The City Council, pursuant to its right and authority, does hereby order the following question submitted to the voters at the Election:

| To continue funding, for Novato only, that cannot be taken by Sacramento, for general city services including, but not limited to: local COVID-19 crisis relief/recovery; neighborhood police patrols; 9-1-1 emergency response; repairing potholes/streets; supporting business community recovery; disaster | **YES** |
| response; shall an ordinance increasing the City of Novato's existing transient occupancy tax by 2% (paid only by hotel/lodging guests), until ended by voters, providing an additional $400,000 annually, with citizens' oversight, independent audits, be adopted? | **NO** |

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Section 3. <u>Proposed Ordinance</u>. The proposed measure to be submitted to the voters is attached hereto as *Exhibit A*. The City Council hereby approves the proposed Transient Occupancy Tax Increase Ordinance, in the form thereof, and its submission to the voters of the City at the November 3, 2020 election. The Board of Supervisors of the County of Marin is requested to order the County Elections Department to set forth in the voters information portion of all sample ballots to be mailed to qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments and rebuttal arguments (if any) for and against the measure, and to provide absent voters ballots for the Election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

Section 4. <u>Notice of Measure</u>. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a newspaper of general circulation, printed, published, and circulated in the City of Novato and hereby designated for that purpose by the City Council of the City of Novato. The City Clerk may request that the County Elections Department prepare and publish the required notice.

Section 5. <u>Request to Consolidate and Conduct Election and Canvass Returns.</u>

(a)   Pursuant to the requirements of Sections 10400 et seq. and 9222 of the Elections Code, the Board of Supervisors of the County of Marin is hereby requested to consent and agree to the consolidation of the Election with the Statewide General Election held on the same day. The City acknowledges that the consolidated election will be held and conducted in the manner prescribed in California Election Code, Section 10418.

(b)   The Election shall be held and conducted, the votes canvassed and returns made, and the results ascertained and determined as provided for herein. In all particulars, the Election shall be held in accordance with the Elections Code of the State of California.

(c)   In accordance with California Elections Code Section 10002, the Board of Supervisors of the County of Marin is requested to permit the County Elections Department to render such election services, prepare all required notices and election materials of holding of the municipal election, to give all such required notices and send to the City's registered voters all required election materials, conduct the general municipal election and canvass the vote received, and take all steps necessary required for the holding of this Election within the City of Novato. The County Elections Department is authorized to specify the location for the tally of ballots and certify the results to the City Council of the City of Novato.

(d)   The County of Marin is requested to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the Election.

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(e)   At the next regular meeting of the City Council of the City of Novato occurring after the returns of the Election have been canvassed, and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the Election .

Section 6. <u>Notice of Election</u>. The notice of the time and place of holding the Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the Election, in time, form and manner as required by law.

Section 7. <u>Submission of Ballot Arguments and Impartial Analysis.</u>

(a)   The City Clerk is directed to set the deadlines, in accordance with statute, for the submission of ballot arguments (Elections Code §§ 9282, 9286) and rebuttals (§ 9285).

(b)   Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(c)   Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(d)   The City Attorney is directed to prepare the Impartial Analysis in accordance with statute (Elections Code § 9280).

(e)   Arguments for and against said measure may be filed in accordance with applicable provision of the law. The Council does not authorize the Council as a body or any individual member of the Council to file a written argument or any rebuttal argument for or against the measure. The City Clerk shall consider other arguments and rebuttal arguments filed by bona fide associations or individual residents who are eligible to vote in accordance with Elections Code Sections 9282, 9285 and 9287.

(f)   Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against it, and copies of the argument against it 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 that it seeks to rebut.

(g)   The provisions of Elections Code Section 9285(a) are hereby adopted.

Section 8. <u>Appropriation of Necessary Funds.</u> The City of Novato recognizes that additional costs will be incurred by the County by reason of this General Election and agrees to

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reimburse the County for any costs. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 9. Time for Election. The polls for the Election shall be open at 7:00 a.m. of the day of the Election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.

Section 10. Services of City Clerk. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Marin and enter this resolution into the book of the City's original resolutions. The City Clerk is hereby authorized and directed to take all steps necessary to place the Transient Occupancy Tax Increase Ordinance on the ballot and to cause the Ordinance to be printed. A copy of the Ordinance shall be made available to any voter upon request.

Section 11. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

        *   *   *   *   *   *

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the 28th day of July, 2020, by the following vote, to wit:

AYES: Wernick, Peele, Eklund, Lucan, Athas
NOES:
ABSTAIN:
ABSENT:

City Clerk of the City of Novato

Approved as to form:

City Attorney of the City of Novato

Attachments

Exhibit A – An Ordinance of the City of Novato, California, Amending Section 16-2.3 of the City of Novato's Municipal Code to Increase the City's Transient Occupancy Tax From 10% to 12% of the Rents Charged to Lodging and Hotel Guests Effective January 1, 2021

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EXHIBIT A

ORDINANCE NO.____

AN ORDINANCE OF THE CITY OF NOVATO, CALIFORNIA, AMENDING SECTION 16-2.3 OF THE CITY OF NOVATO'S MUNICIPAL CODE TO INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX FROM 10% TO 12% OF THE RENTS CHARGED TO LODGING AND HOTEL GUESTS EFFECTIVE JANUARY 1, 2021

THE PEOPLE OF THE CITY OF NOVATO DO ORDAIN AS FOLLOWS:

Section 1.

The voters of the City of Novato hereby find and declare as follows:

A. Pursuant to California Revenue and Taxation Code section 7280 et seq., the City of Novato ("City") has the authority to levy a transient occupancy tax ("TOT") upon the privilege of occupying a hotel, as defined in section 16-2.2 of the City's Municipal Code, for a period of 30 days or less.

B. The TOT is a general tax which is deposited into the City's General Fund. The General Fund pays for essential City services such as police protection, emergency preparedness, maintenance of streets and traffic operations, recreation services, maintenance of parks and open space, maintenance of City buildings and facilities, improvements and maintenance of overall City infrastructure and property, and general municipal services to the public.

C. The City wishes to increase its TOT from the existing 10 percent to 12 percent effective January 1, 2021, subject to voter approval, for general fund purposes.

Section 2.

Section 16-2.3 of the Novato Municipal Code is amended to read as follows:

16-2.3 *Tax Imposed.* The rate of the uniform hotel room tax imposed by this section shall be twelve percent (12%). For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent charged by the operator. The proceeds of said tax shall be placed in the general fund to be used for general fund purposes. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient ceasing to occupy space in the hotel. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment from the operator to the city. If for any reason the tax is not paid to the operator of the hotel, the tax collector may require that such tax shall be paid directly to the tax collector.

Section 3.   Construction and Severability

This ordinance shall be broadly construed in order to achieve the purposes stated in this ordinance. This ordinance shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, subsection, sentence, clause, phrase, part, or portion of this ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The voters hereby declare that this ordinance, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this ordinance that can be given effect without the invalid application.

Section 4. Amendment or Repeal.

Except as otherwise provided herein, this ordinance may be amended or repealed only by the voters of the City of Novato at a City election.

Section 5.   Election for Ordinance.

An election shall be ordered to enable the voters of the City of Novato to approve or reject this ordinance. The date of the election shall be November 3, 2020.

Section 6.   CEQA Findings.

The findings for this ordinance in compliance with the California Environmental Quality Act (CEQA) are the same as those set forth in the City's Resolution 2020-54 calling for an election on this ordinance. The CEQA findings in said resolution are incorporated herein by reference.

Section 7.   Publication.

The Clerk of the City of Novato is hereby directed to cause the following summary of the ordinance to be published by a newspaper of general circulation, published and circulated in the City of Novato:

> **Contingent upon majority voter approval, this ordinance will increase the City's transient occupancy tax imposed on guests of the City's hotels and lodges from 10% to 12% of the rent charged to those guests.**

Section 8.   Mayor's Attestation of Results.

Upon the ordinance's approval by a majority of the voters of the City, and upon the City Council's adoption of a resolution declaring the election results, the Mayor shall hereby be authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

THIS ORDINANCE WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF NOVATO ON JULY 28, 2020, BY THE FOLLOWING VOTE:

2020 Novato TOT Measure Draft II
July 17, 2020

AYES:
NOES:
ABSTAIN:
ABSENT:

THIS ORDINANCE WAS APPROVED BY THE FOLLOWING VOTE OF THE PEOPLE ON NOVEMBER 3, 2020:

YES____
NO_____

Adopted by declaration of the vote by the City Council of the City of Novato on _____effective _____2020.

_____
Denise Athas, Mayor

ATTEST:

_____
_____, City Clerk

APPROVED AS TO FORM:

_____
Jeffrey A. Walter, City Attorney