RESOLUTION NO. 2012-42

A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING AND GIVING NOTICE OF A GENERAL ELECTION TO BE HELD NOVEMBER 6, 2012 AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION; AUTHORIZING THE CITY CLERK OR HER DULY AUTHORIZED OFFICERS TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION FOR THE PURPOSE OF ELECTING THREE PERSONS TO FILL THE OFFICE OF CITY COUNCIL MEMBER AND TWO PERSONS TO FILL THE OFFICE OF MEMBER OF THE BOARD OF EDUCATION AND ONE PERSON TO FILL THE OFFICE OF CITY TREASURER AND FOR SUBMITTING TO THE VOTERS A PROPOSED ORDINANCE IMPOSING A ONE-HALF OF ONE PERCENT (.5%) TRANSACTIONS AND USE (SALES) TAX FOR A PERIOD OF EIGHT YEARS.

WHEREAS, the Charter of the City of Albany provides that the City's General Municipal Election will be held on each even year and shall be consolidated with the Statewide General Election and that the Statewide General Election shall be held in said City on Tuesday, November 6, 2012; and

WHEREAS, pursuant to the Charter, it is necessary to elect: Three (3) persons to fill the office of City Council Member; two (2) persons to fill the office of Member of the Board of Education; and one (1) person to fill the office of City Treasurer; and

WHEREAS, the City of Albany is a charter city and through its charter is empowered to exercise all powers necessary and appropriate to a municipal corporation and the general welfare of its inhabitants, including such powers which shall not be held to be exclusive or any limitation of this general grant of powers; and

WHEREAS, the City Charter provides that the City of Albany shall have the power to establish standards, procedures, rules and regulations related to any public financing; and

WHEREAS, the City Council desires to submit one ballot measure to the voters of the City of Albany for their approval and adoption at the general election to be held in the City on November 6, 2012;

WHEREAS, the ballot measure is as follows:

An amendment to Chapter 14 "Finance" of the Albany Municipal Code adding Article 4-12 enacting a one-half of one percent (.5%) Transactions and Use (Sales) Tax, to be administered by the State Board of Equalization.

WHEREAS, it is desirable that the Alameda County Department of Elections canvas the returns of the consolidated election and that the election be handled in all respects as if it were only one election; and

WHEREAS, November 6, 2012 is the date of the general statewide election; and

WHEREAS, Election Code §9282 sets forth procedures for how arguments in favor or in opposition of any city measure shall be submitted.

NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1 The City's General Municipal Election is hereby called and ordered to be consolidated with the Statewide General Election to be held in said City of Albany, State of California, on Tuesday, November 6, 2012, in accordance with the provisions of the Charter and the Elections Code of the State of California, for the purpose of voting upon a City ballot measure and electing the following officers of the City for the terms specified:

a. Three (3) Council Members for the City Council of the City of Albany, each term commencing after the official canvass made by the Registrar of Voters and continuing for four (4) years from the day of his or her induction.

b. Two (2) Members of the Board of Education of the City of Albany, each term commencing after the official canvass made by the Registrar of Voters and continuing for four (4) years from the day of his or her induction.

c. One (1) City Treasurer of the City of Albany, the term commencing after the official canvass made by the Registrar of Voters and continuing for four (4) years from the day of his or her induction.

d. A ballot measure to approve the ordinance authorizing a general tax to be approved by the voters as set forth in Exhibit A, attached hereto and incorporated by reference as if set forth herein word for word, and which may be lawfully submitted at said election as set forth in this Resolution. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the city at the November 6, 2012 election, as required by Revenue and Taxation Code section 7585.9.

Section 2 Pursuant to the Charter powers of the City of Albany and the laws of the State of California related to charter cities, there is called and ordered to be held in the City of Albany, California on November 6, 2012, an election for the purposes of submitting to the voters one ballot measure as set forth in Exhibit A, incorporated herein by reference as if set forth herein word for word. Pursuant to the Election Code Section 10400 et seq., the election for this measure shall be consolidated with the statewide general election to be conducted on November 6, 2012.

Section 3 The question to be presented to the voters shall be as follows:

To maintain and provide city services and facilities, including:

Fire and Police protection, safety, and emergency response

Recreational programs, parks, playgrounds, and open space

Senior and youth programs and facilities

Community development and environmental preservation

And other general city services and facilities,

Shall the City of Albany enact a one-half cent sales tax, with annual independent audits, to end after eight years, with all funds spent only in Albany?

This question requires the approval of a majority of qualified electors casting votes at the election.

Section 4 Pursuant to the requirements of Elections Code §10403, the Board of Supervisors of the County of Alameda is hereby requested to consent and agree to the consolidation of said election.

Section 5 The City Clerk is hereby directed to submit a certified copy of the ballot measure to the City Attorney, who shall prepare an impartial analysis of the measure in accordance with Election Code §9280. The analysis shall be submitted by the City Attorney to the Registrar of Voters, or other appropriate election official of Alameda County for printing by August 10, 2012. The analysis shall not exceed 500 words in length and shall otherwise comply in all substantial respects with the applicable provisions of the Election Code of the State of California.

Section 6 Arguments for and against the measure may be filed in accordance with this resolution and applicable provisions of the law. The last date for the submission of direct arguments for and against these measures shall be submitted to the City Clerk's office by no later than 12:00 p.m. on Friday, August 17, 2012. Rebuttal arguments shall be submitted to the City Clerk's office by no later than 12:00 p.m. on Friday, August 24,

2012. Any argument shall not exceed 300 words in length and shall not be signed by more than five persons. Any rebuttal shall not exceed 250 words in length and shall not be signed by more than five persons; those persons may be different persons who sign the direct arguments.

Section 7 A subcommittee comprised of two Council Members is hereby authorized to prepare and file a written argument in favor of the measure not to exceed 300 words, on behalf of the Albany City Council. At the subcommittee's discretion, the arguments may also be signed by bonafide organizations or by individual voters. A subcommittee comprised of two Council Members is also hereby authorized to prepare and file a written rebuttal to an argument against the measure not to exceed 250 words, on behalf of the Albany City Council. At the subcommittee's discretion, the rebuttal may also be signed by bondafide organizations or by individual voters.

Section 8 Pursuant to Election Code §9285, when the City Clerk has selected the arguments for and against the measures (Alameda County will issue the appropriate Measure letter at a later time), which shall be printed and distributed to the voters, the City Clerk shall send copies of the arguments in favor of the measures, to the authors of the arguments against the measures, and copies of the arguments against the measures to the authors of the arguments in favor of the measures.

Section 9 The City Clerk is hereby directed to cause notice of the measures to be published in a newspaper of general circulation, or any other newspaper designated as an official newspaper of the City of Albany in accordance with Elections Code §12111 and Government Code §6061.

Section 10 That pursuant to the Elections Code of the State of California, the Board of Supervisors of the County of Alameda is hereby requested to consolidate the General Election to be held at said County on November 6, 2012, with the Regular General Municipal Election so that the election precincts, polling places and voting booths shall in every case, be the same, and so there may be one set of election offices and officers at each said election precinct, and one form of ballot, and provide for expenses thereof, all as provided in said Elections Code of the State of California.

Section 11 That in all particulars not recited in this Resolution, said election shall be held and conducted as provided by law for holding Municipal Elections in the City of Albany.

Section 12 That the Regular General Municipal Election, to be held in the City of Albany, shall be canvassed by the Registrar of Voters of the County of Alameda, State of California.

Section 13 That the City of Albany shall pay to the Board of Supervisors of Alameda County its prorata share of the expenses of said election as jointly determined by the City of Albany and the Board of Supervisors of Alameda County in accordance with said provisions of said Elections Code of the State of California.

Section 13 That the City Clerk of the City of Albany is hereby authorized instructed and directed to provide the Alameda County Registrar of Voters with all pertinent information and material as required.

Section 15 That the City Clerk of the City of Albany is hereby authorized and directed to file a copy of this Resolution immediately upon its adoption with the appropriate County agencies.

Section 16 The City Council of the City of Albany shall meet at its usual meeting place to review the certified statement of results of the election within 28 days of the election and shall thereafter declare the results.

Section 17 The Alameda County Registrar of Voters is hereby requested to include the ballot measure, with the ballot question, referred to herein and set forth in Exhibit "A" in the voter pamphlet, and to number and designate the ballot measure as is appropriate.

Section 18 The Voter Pamphlet shall include the ballot question wording to the voters, the question as presented before the text, and the exact wording of the proposed Albany Municipal Code sections contained in Exhibit A attached hereto.

Section 19 The approval of this Resolution is exempt from the California Environmental Quality Act (CEQA). The transactions and use (sales) tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines section 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 any such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060, review under EQA is not required prior to enactment of the tax.

The undersigned hereby certifies that the foregoing is a full, true, and complete copy of the Resolution duly passed and adopted by the City Council of the City of Albany at a regular meeting thereof on the 16th day of July, 2012.~~by the following vote:~~

Farid Javandel
Mayor

City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2012-42

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 16th day of July, 2012, by the following votes:

AYES: Council Members Lieber Wile, Thomsen, Vice Mayor Atkinson and Mayor Javandel

NOES:

ABSENT:

ABSTAINED:

RECUSED:

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 17th

Day of July, 2012.

Eileen Harrington

Eileen Harrington
DEPUTY CITY CLERK