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RESOLUTION NO. 94-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALBANY TO PROPOSE AN ORDINANCE, ENTITLED "LIBRARY SERVICES ACT OF 1994", WHICH WOULD IMPOSE A TAX FOR THE PURPOSE OF RAISING REVENUES NECESSARY TO RESTORE A PORTION OF LIBRARY SERVICES TO BE SUBMITTED TO THE ELECTORS AT THE ELECTION ON JUNE 7, 1994; DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND TO PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH LAW.

WHEREAS, the City of Albany values its public library and would like to see this institution continue to make a significant contribution to community education, literacy, lifelong learning and the literary heritage of our city; and

WHEREAS, the City Council on its own motion, desires to submit to the qualified electors of the City of Albany a proposed ordinance entitled "Library Services Act of 1994" to be voted upon at the special municipal election on June 7, 1994; and

WHEREAS; the proposed ordinance would impose a parcel and square footage tax on residential and non-residential property, respectively, within the City of Albany to raise revenue for public library services; and

WHEREAS, article XIII A of the California Constitution (Proposition 13) allows two-thirds of the qualified electors of the City to impose a special tax within the City; and

WHEREAS, the City Council will be granted the power under the proposed ordinance to reduce the applicable tax rates imposed by the ordinance upon a finding that such rates are no longer necessary, but in no case shall rates be raised above the rate ceilings established in the proposed ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to June 7, 1994, to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this Resolution; and

BE IT FURTHER RESOLVED, that the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the June 7, 1994 election and the City Council hereby authorizes and appropriates all money necessary for the City Administrator and City Clerk to prepare for and conduct the June 7, 1994 election consistent with law; and

BE IT FURTHER RESOLVED, that the text of the proposed ordinance will read as follows:

CITY OF ALBANY PROPOSED ORDINANCE NO. 94-06
LIBRARY SERVICES ACT OF 1994

Be it Ordained by the People of the City of Albany that the following Ordinance shall be enacted:

SECTION 5-22 LIBRARY SERVICES ACT OF 1994

- 1 E. "Improvements" shall mean all Buildings, structures, fixtures, fences and
2 paving in the City erected or affixed to land, and all items which are
3 permanently affixed to land which have become a part of real property by
4 having been physically incorporated therein or permanently affixed thereto.
- 5 F. "Non-Residential" shall mean all parcels that are not classified by this
6 Ordinance as Residential Units, and shall include, but not be limited to,
7 industrial and institutional Improvements, as well as Vacant Parcels.
- 8 G. "Owner" shall mean the Person having title to real estate as shown on the
9 most current official assessment role of the alameda county Assessor.
- 10 H. "Parcel" shall mean a unit of real estate in the City of Albany as shown on
11 the most current official assessment role of the Alameda County Assessor.
- 12 I. "Person" shall include individuals, and for profit and nonprofit
13 organizations, including, but not limited to, corporations, partnerships,
14 business associations and trusts.
- 15 J. "Possessory Interest" as it applies to property owned by any agency of the
16 government of the United States, the State of California, or any political
17 subdivision thereof, shall mean possession of, claim to, or right to the
18 possession of, land or Improvements and shall include any exclusive right
19 to the use of such land or Improvements.
- 20 K. "Residential Unit" shall mean a Building or portion of a Building designed
21 for or occupied exclusively by one Family.
- 22 L. "Square footage" shall mean the total gross area of a Parcel as determined
23 by the Alameda County Assessor and/or as otherwise known to the City's
24 Public Works Director.
- 25 M. "Vacant Parcel" shall mean an unimproved Parcel, but shall not include
26 unimproved Parcels which have been dedicated as open space or
27 parklands.
- 28 N. "Library Collections" are defined as including, but not limited to books,
magazines, newspapers, electronic databases, materials for public use that
are in video and audio formats, as well as learning materials used to
enhance reading and literacy skills.

Section 5-22.3 IMPOSITION OF PARCEL TAX

There is hereby imposed a special tax on all parcels in the City of Albany, except where the parcels are otherwise exempt from taxation by Section 5-22.4 of this Ordinance.

The tax imposed by this section shall be assessed to the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of the Possessory Interest in such parcel, unless such holder is also by law exempt

1 from taxation.

2 The tax hereby imposed shall be at the following rates:

- 3 (A) For all single family Residential Parcels, the tax shall be at the annual rate
4 of \$42 per Parcel.
- 5 (B) For all condominium Residential Parcels, the tax shall be at the annual rate
6 of \$42 per Parcel.
- 7 (C) For all multiple unit Residential Parcels, the tax shall be at the annual rate
8 of \$31.50 per Residential Unit located on such Parcels.
- 9 (D) For non-Residential Parcels the tax rate shall be at the annual rate of \$42
10 for every single family Residential Parcel unit equivalent. Equivalentents will
11 be based on Parcel square footage and by land use category as follows:

<u>LAND USE CATEGORY</u>	<u>AREA (SFE)</u>
Commercial	5,000
Industrial	5,000

12 Vacant land @ ½ the developed rate.

13 Example: assessment calculation for a commercial parcel with an area of 9,700
14 sq. ft.:

$$\frac{\text{Area}}{9,700 \text{ SF} / 5,000 \text{ SF}} = 1.94 \text{ SFE}$$
$$1.94 \text{ SFE} (\$42) = \$81.48$$

17 Section 5-22.4 EXEMPTIONS

18 The tax imposed by this Ordinance shall be subject to the exemptions set forth in
19 this section.

- 20 A. Low-Income Homeowner Exemption. Exempt from this tax are owners of
21 single-family Residential Units in which they reside whose combined
22 Family income, from all sources for the previous calendar year, is at or
23 below the income level qualifying as "very low-income" for a Family of
24 such size under Section 8 of the United States Housing Act of 1937 [42
25 U.S.C.A Sections 1437 et. seq.], for such year. The application process
26 will be in the form of self-certification under penalty of perjury. Owners
27 must apply for the exemption provided for in this section annually by
28 petition to the Director of Finance of the City of Albany in the manner and
at the time set forth by the Director of Finance and Administrative Services.
Such petitions shall be on forms provided by the Director of Finance and
Administrative Services and shall provide such information as the Director
of Finance and Administrative Services may require. If the Director of
Finance and Administrative Services determines the need to audit an

1 application, the Director of Finance and Administrative Services may
2 require additional information, including, but not limited to, federal
3 income tax returns and W-2 forms of owner-occupants eligible for this
4 exemption.

- 5 B. Low-Income Renter Rebate. Renters who reside in a rental unit within the
6 City of Albany whose combined Family income, from all sources for the
7 previous calendar year, is at or below the income level qualifying as "very
8 low-income" for a Family of such size under Section 8 of the United States
9 Housing Act of 1937 [42 U.S.C.A Sections 1437 et. seq.], for such year
10 may apply for a rebate of the special tax imposed by this Ordinance that
11 applies to the rental unit in which they reside. The application process will
12 be in the form of self-certification under penalty of perjury. Renters must
13 apply for the rebate provided for in this section annually by petition to the
14 Director of Finance of the City of Albany in the manner and at the time set
15 forth by the Director of Finance and Administrative Services. Such
16 petitions shall be on forms provided by the Director of Finance and
17 Administrative Services and shall provide such information as the Director
18 of Finance and Administrative Services shall require. If the Director of
19 Finance and Administrative Services determines the need to audit an
20 application, the Director of Finance and Administrative Services may
21 require additional information, including, but not limited to, federal
22 income tax returns and W-2 forms of renter-occupants eligible for this
23 exemption. Only one such rebate shall be allowed annually to a rental
24 unit.

25 Section 5-22.5
26 REDUCTION IN TAX AND LIMITED AUTHORITY TO INCREASE

27 (a) Subject to paragraph (b), the tax rates imposed by this Ordinance are
28 maximum rates and may not be increased by the City council above such
maximum rates. The tax imposed by this Ordinance may be reduced or
eliminated by the City Council on or before July 1 in any year in which the City
Council determines that after such reduction or elimination there will be sufficient
revenues available to balance the City Council's Adopted Policy Budget. Such
reduction or elimination shall be effective for the fiscal year following such vote.

(b) After the first year of imposition of this tax, the City Council may increase the
tax imposed hereby only upon a finding that the cost of living in the immediate
San Francisco Bay Area, as verified by the Consumer Price Index established by
the United States Bureau of Labor Statistics (all Urban Consumers - San Francisco
Bay area), has increased; the increase of the tax imposed hereby shall not exceed
such verified index. It is further provided that in no event shall the tax rate
adjustment imposed hereby exceed, on an annual basis, five percent (5%) of the
tax rates imposed by the City of Albany during the immediately preceding fiscal
year.

29 Section 5-22.6 PROPERTY TAX

30 This special tax is a property tax and qualified property owners and renters shall

1 be entitled to the benefits of the Gonsalves-Deukmejian-Petris Senior Citizen's Property
2 Tax Assistance Law (California Revenue and Taxation Code Section 20501 et. seq.) and
3 the Senior Citizens and Disabled Citizens Property Tax Postponement Law (California
4 Revenue and Taxation Code Section 20581 et. seq.), as provided by law.

5 Section 5-22.7 ANNUAL AUDIT

6 A certified public accounting firm retained by the City will perform an annual
7 audit to assure accountability of the proper disbursement of these tax proceeds in
8 accordance with the objectives stated herein.

9 Section 5-22.8 EXAMINATION OF BOOKS, RECORDS, WITNESSES; PENALTIES

10 The Director of Finance and Administrative Services, or her/his designee, is
11 hereby authorized to examine assessment rolls, property tax records, records of the
12 Alameda County Recorder and any other records of the County of Alameda deemed
13 necessary in order to determine ownership of Parcels and computation of the tax
14 imposed by this Ordinance.

15 Section 5-22.9 COLLECTION OF TAX; INTEREST AND PENALTIES

16 The City Council of the City of Albany is authorized to have the taxes imposed by
17 this Ordinance collected by the County of Alameda in conjunction with the County's
18 collection of property tax revenues for the City of Albany. In the event that the County
19 of Alameda collects the taxes imposed by this Ordinance, the imposition of penalties,
20 additional fees and interest upon persons who fail to remit any tax imposed by this
21 Ordinance, or who fail to remit any delinquent remittance under this Ordinance, shall be
22 subject to and governed by the rules, regulation, and procedures utilized by the County
23 of Alameda in its collection of property taxes for the City of Albany and its collection of
24 this additional tax for the City of Albany.

25 Section 5-22.10 COLLECTION OF UNPAID TAXES

26 The amount of any tax, penalty, and interest imposed under the provisions of this
27 Ordinance shall be deemed a debt to the City. Any person owing money under the
28 provisions of this Ordinance shall be liable to an action brought in the name of the City
for the recovery for such amount.

Section 5-22.11 REFUND OF TAX, PENALTY, OR INTEREST
PAID MORE THAN ONCE; OR ERRONEOUSLY OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty, or interest has been paid more than

1 once, or has been erroneously or illegally collected or received by the City under this
2 Ordinance, it may be refunded provided a verified claim in writing therefor, stating the
3 specific ground upon which such claim is founded, is filed with the Director of Finance
4 and Administrative Services within one (1) year from the date of payment. If the claim is
5 approved by the Director of Finance and Administrative Services, the excess amount
6 collected or paid may be refunded or may be credited against any amounts then due and
7 payable from the Person from whom it was collected or by whom paid, and the balance
8 may be refunded to such Person, his/her administrators or executors.

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13 Section 5-22.12 SAVINGS CLAUSE

14 The provisions of this Ordinance shall not apply to any Person, or to any property
15 as to whom or which it is beyond the power of the City of Albany to impose the tax
16 herein provided. If any provision, sentence, clause, section or part of this Ordinance is
17 found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or
18 invalidity shall affect only such provision, sentence, clause, section or part of this
19 Ordinance and shall not affect or impair any of the remaining provisions, sentences,
20 clauses, sections or parts of this Ordinance. It is hereby declared to be the intention of
21 the City of Albany, that this Ordinance would have been adopted had such
22 unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not
23 been included herein.

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28 Section 5-22.13 REGULATIONS

The City Council is hereby authorized to promulgate such regulations as it shall
deem necessary in order to implement the provisions of this Ordinance.

Section 5-22.14 NO AMENDMENT

This Ordinance may not be amended by action of the City Council without the
applicable voter approval.

Section 5-22.15 INCREASE APPROPRIATIONS LIMIT

Pursuant to California Constitution Article XIII B, the appropriation limit for the
City of Albany is hereby increased by the aggregate sum authorized to be levied by this
special tax for each of the four fiscal years from 1994-95 through 1997-98.

BE IT FURTHER RESOLVED, that in accordance with the Election Code and the
Albany City Charter and Albany Municipal Code, the City Clerk shall fix and determine a
date for submission of arguments for or against said measure, and said date shall be
posted in the Office of the City Clerk; and

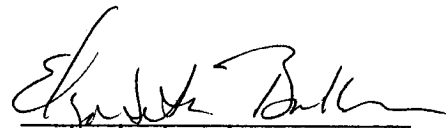
BE IT FURTHER RESOLVED, that in accordance with the Elections Code and the
Albany City Charter and the Albany Municipal Code, the City Clerk shall provide for
notice and publication as to said measure in the manner provided for by law.

BE IT FURTHER RESOLVED, that each ballot used at said election must have
printed thereon, in addition to any other matter required by law, the following:

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**PROPOSED ORDINANCE - LIBRARY SERVICES
ACT OF 1994. SHALL THE CITY OF ALBANY IMPOSE
A SPECIAL TAX TO PROVIDE FUNDS NECESSARY TO
MAINTAIN PUBLIC LIBRARY SERVICES IN THE CITY OF
ALBANY?**

**YES
NO**


Elizabeth Baker, Mayor



City of Albany

1000 SAN PABLO AVE. • ALBANY, CALIFORNIA 94706-2295

FAX (415) 524-9359

CITY COUNCIL
(415) 528-5720

ADMINISTRATIVE
OFFICER
(415) 528-5710

BUILDING
INSPECTION
(415) 528-5760

CITY ATTORNEY
(415) 528-5717

CITY CLERK
(415) 528-5720

CIVIL SERVICE/
PERSONNEL
(415) 528-5710

FINANCE/
TREASURER
(415) 528-5730

FIRE
(General)
(415) 528-5771

FIRE
(Prevention)
(415) 528-5775

PLANNING
& ZONING
(415) 528-5760

POLICE
(415) 525-7300

PUBLIC WORKS/
ENGINEERING
(415) 528-5760

RECREATION
& COMMUNITY
SERVICES
958 Masonic
(415) 528-5740

SENIOR SERVICES
846 Masonic
(415) 528-5748

Resolution No. 94-11

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

THIS 7th day of March, 1994, by the following votes:

AYES: Council Members Cain, Good & Mayor Baker

NOES: Council Members Brodsky & Rubin

ABSENT: None

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, THIS

8th day of March, 1994


JACQUELINE L. BUCHOLZ, CITY CLERK