

**EXHIBIT B**  
**ORDINANCE #06-05**  
**SUPPLEMENTAL LIBRARY SERVICES ACT OF 2006**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF ALBANY, CALIFORNIA ADOPTING A SUPPLEMENTAL LIBRARY SERVICES PARCEL TAX BY ADDING TO CHAPTER 5 OF THE ALBANY MUNICIPAL CODE COMMENCING AT SECTION 4-22 ET SEQ.**

**THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:**

Section 1: Chapter 5-23 et seq., entitled the Supplemental Library Services Act of 2006 is hereby enacted and shall read as follows:

**5-23 SUPPLEMENTAL LIBRARY SERVICES ACT OF 2006.**

**5-23.1 Title and Purpose.**

a. *Title.* This section may be cited as the "Supplemental Library Services Act of 2006," and shall be codified in Chapter 5 part 23 et seq.

b. *Purpose.* The tax imposed under this section is solely for the purpose of raising revenue for public library services in the City of Albany.

It is the intention of the voters and of the City Council that the monies raised by this tax be used primarily to provide Sunday hours for the Albany Library, to replace staff hours lost due to budget increases, to purchase materials and supplies and to assist in preserving library services in the event that Library funding levels are frozen by Alameda County.

It is further the intent of this legislation that these monies raised by the taxpayers of the City of Albany pursuant to this section shall be spent to provide public library services and materials to citizens of Albany in an efficient and appropriate manner. To this end, the Council, after careful public deliberation, may determine that the services currently provided can be provided more effectively by changing the method of delivery. If such determination is made, the Council may procure such public library services from Alameda County, or other public entity, or agency, or provider it deems suitable, and/or establish public library services by any of the methods prescribed by State law.

In recognition of the potential hardship on low-income families and enterprises, the section provides a complete exemption from the tax for low-income homeowners, schools, hospitals, churches, and land used for agricultural purposes.

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This special tax is not an ad valorem tax on real property nor a transaction tax nor sales tax on the sale of real property within the City.

This ordinance was approved by the voters of the City at the consolidated state election held on June 6, 2006, by the following vote:

Yes:---No \_\_\_\_\_. Accordingly, this special parcel tax is levied under the Chapter pursuant to the City's Charter, the applicable State Constitutional provisions and State law provisions, and other applicable laws. Under the Charter, it is hereby expressly provided that, as an exercise of its municipal affairs powers, the City shall authorized to use all or portions of the Tax for the purposes designated in this ordinance.

### **5-23.2 Definitions.**

For purposes of this section only, the following terms shall be defined as set forth below:

*Building* shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "building" includes the word "structure."

*Commercial, industrial and institutional* shall refer to all buildings and improvements within the City that are not classified by this Chapter as dwelling units.

*Dwelling* shall mean a building or portion of a building designed for human occupancy.

*Family* shall mean one or more persons related by blood, marriage or adoption, who are living together in a single residential unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single residential unit and maintain a common household.

*Improvements* shall mean all buildings, structures, fixtures, fences and paving in the City erected or affixed to land, and all items which are permanently affixed to land which have become a part of real property by having been physically incorporated therein or permanently affixed thereto.

*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.

*Nonresidential* shall mean all parcels that are not classified by this section as residential units, and shall include, but not be limited to, industrial and institutional improvements, as well as vacant parcels.

*Owner* shall mean the person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

*Parcel* shall mean a unit of real estate in the City of Albany as shown on the most current official assessment role of the Alameda County Assessor.

*Person* shall include individuals, and for profit and nonprofit organizations, including, but not limited to, corporations, partnerships, business associations and trusts.

*Possessory interest* as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or improvements and shall include any exclusive right to the use of such land or improvements.

*Residential unit* shall mean a building or portion of a building designed for or occupied exclusively by one (1) family.

*Square footage* shall mean the total gross area of a parcel as determined by the Alameda County Assessor and/or as otherwise known to the City Engineer.

*Vacant parcel* shall mean an unimproved parcel, but shall not include unimproved parcels which have been dedicated as open space or parklands.

### **5-23.3 Imposition of Supplemental Parcel Tax.**

There is hereby imposed a supplemental special tax on all parcels in the City of Albany, except where the parcels are otherwise exempt from taxation by subsection 5-23.4 of this section.

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 from taxation.

The tax hereby imposed shall be at the following rates:

a. For all single family residential parcels, the tax shall be at the annual rate of ~~forty two~~twenty four (\$24.00) dollars per parcel.

b. For all condominium residential parcels, the tax shall be at the annual rate of ~~forty two~~twenty four (\$24.00) dollars per parcel.

c. For all multiple unit residential parcels, the tax shall be at the annual rate of eighteen dollars (\$18.00) per residential unit located on such parcels.

d. For nonresidential parcels the tax rate shall be at the annual rate of (\$24.00) dollars for every single family residential parcel unit equivalent. Equivalents will 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

Vacant land @ 1/2 the developed rate.

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

$$\begin{aligned} & \text{Area} \\ & 9,700 \text{ SF} / 5,000 \text{ SF} = 1.94 \text{ SFE} \\ & 1.94 \text{ SFE} (\$24) = \$46.56 \end{aligned}$$

#### **5-22.4 Exemptions.**

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

a. *Low-Income Homeowner Exemption.* Exempt from this tax are owners of single-family residential units in which they reside whose combined family income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low-income" for a family of such size under Section 8 of the United States Housing Act of 1937 [42 U.S.C.A. Sections 1437 et seq.], for such year. The application process will be in the form of self-certification under penalty of perjury. Owners must apply for the exemption provided for in this section annually by 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 application, the Director of Finance and Administrative Services may require additional information, including, but not limited to, federal income tax returns and W-2 forms of owner-occupants eligible for this exemption.

b. *Low-Income Renter Rebate.* Renters who reside in a rental unit within the City of Albany whose combined family income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low-income" for a family of such size under Section 8 of the United States Housing Act of 1937 [42 U.S.C.A. Sections 1437 et seq.], for such year may apply for a rebate of the special tax imposed by this section that applies to the rental unit in which they reside. The application process will be in the form of self-certification under penalty of perjury.

Renters must apply for the rebate provided for in this section annually by 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 shall require. If the Director of Finance and Administrative Services determines the need to audit an application, the Director of Finance and Administrative Services may require additional information, including, but not limited to, federal income tax returns and W-2 forms of renter-occupants eligible for this exemption. Only one such rebate shall be allowed annually to a rental unit.

#### **5-22.5 Reduction in Tax and Limited Authority to Increase.**

a. Subject to paragraph b., the tax rates imposed by this section are maximum rates and may not be increased by the City Council above such maximum rates. The tax imposed by this section 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 based on the annual increase as published by the ~~hereby only upon a finding that the~~ U.S. Department of Labor Employment Cost Index (ECI) for total compensation, civilian, and State and local government workers. 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.~~

#### **5-22.6 Property Tax.**

This special tax is a property tax and qualified property owners and renters shall be entitled to the benefits of the Gonsalves-Deukmejian-Petris Senior Citizen's Property Tax Assistance Law (California Revenue and Taxation Code Section 20501 et seq.) and the Senior Citizens and Disabled Property Tax Postponement Law (California Revenue and Taxation Code Section 20581 et seq.), as provided by law.

#### **5-22.7 Annual Audit.**

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

#### **5-22.8 Examination of Books, Records, Witnesses; Penalties.**

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

#### **5-22.9 Accountability**

Pursuant to Sections 50075.1 and 50075.3 of the California Government Code, the specific purposes of the Tax and the requirement that the Tax Proceeds be applied to such purposes and the establishment of a special fund for the Tax Proceeds are as set forth in section 5-23.1. So long as the Tax is collected hereunder, commencing not later than July 1, 2007, the Finance Director is hereby authorized and directed to cause to be prepared and filed with the Council a report that shows the amount of Tax collected and expended and the status of any projects funded with the Tax Proceeds. For purposes of this section 4-10.7, the Finance Director is authorized to retain such consultants, accountants or agents as may be necessary or convenient to accomplish the foregoing.

#### **5-22.10 Computation and Collection of Tax; Interest and Penalties.**

The City's Director of Finance and Administrative Services (the "Finance Director") or his/her designee or employee is hereby authorized and directed each fiscal year, commencing with the fiscal year 2006-2007, to determine the Tax amount to be levied for the next ensuing fiscal year for each parcel of real property within the City, in the manner provided in Section 5-22.3.

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

#### **5-22.11 Collection of Unpaid Taxes.**

The amount of any tax, penalty, and interest imposed under the provisions of this section shall be deemed a debt to the City. Any person owing money under the provisions

of this section shall be liable to an action brought in the name of the City for the recovery for such amount.

**5-22.12 Refund of Tax, Penalty, or Interest Paid More Than Once; or Erroneously or Illegally Collected.**

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

**5-22.13 Savings Clause.**

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

**5-22.14 Regulations.**

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

**5-22.15 No Amendment.**

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

**5-22.16 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 the fiscal year\_2006-2007 and each year thereafter.

**5-22.17 Effective Date.**

This ordinance relates to the levying and collecting of the Tax by the City and shall be in full force and effect ten (10) days after the certification by the Council or County of the election returns indicating passage of the ordinance by two-thirds of the voters casting votes in the election.