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RESOLUTION NO. 2018-98

A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING AND GIVING NOTICE OF A GENERAL ELECTION TO BE HELD NOVEMBER 6, 2018 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 TWO PERSONS TO FILL THE OFFICE OF CITY COUNCIL MEMBER AND THREE PERSONS TO FILL THE OFFICE OF BOARD OF EDUCATION MEMBER, AND FOR SUBMITTING TO THE VOTERS AN ORDINANCE AMENDING ARTICLE 4-12, CHAPTER IV OF THE ALBANY MUNICIPAL CODE EXTENDING THE DURATION OF THE EXISTING ONE-HALF CENT TRANSACTIONS AND USE (SALES) TAX; AN ORDINANCE ENACTING A PARCEL TAX TO FUND PARKS AND OPEN SPACE IMPROVEMENTS AND MAINTENANCE; AND AN AMENDMENT TO THE ALBANY CITY CHARTER SECTION 3.01 TO MAKE THE CITY TREASURER POSITION APPOINTIVE

WHEREAS, Section 2.01 of the Albany City Charter 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, 2018; and

WHEREAS, pursuant to the Charter, it is necessary to elect: Two (2) persons to fill the office of City Council Member; three (3) persons to fill the office of Board of Education Member; and

WHEREAS, the City of Albany is a charter city and pursuant to Article XI, Section 7 of the California Constitution and Section 1.03 of the Albany City Charter is empowered to exercise all powers necessary and appropriate for a municipal corporation and the general welfare of its inhabitants; and

1 **WHEREAS**, Section 5.01 of the Albany City Charter provides that except as
2 otherwise provided in the Charter or City ordinances, City elections shall be conducted in
3 accordance with the State Elections Code; and
4

5 **WHEREAS**, the City Council desires to submit three ballot measures to the
6 voters of the City of Albany for their approval and adoption at the general election to be
7 held in the City on November 6, 2018; and
8

9 **WHEREAS**, the three ballot measures are as follows:

10 (A) An ordinance amending Article 4-12 of Chapter IV of the Albany Municipal
11 Code to extend the duration of an existing transactions and use (sales) tax for
12 general municipal purposes and administered by the California Department of
13 Tax and Fee Administration;
14

15 (B) An ordinance enacting a special parcel tax to fund the maintenance and
16 improvements of the City park and open space facilities;
17

18 (C) An amendment to Section 3.01 of the Albany City Charter to provide that the
19 City Treasurer be appointed by the City Council effective December 1, 2020,
20 or sooner if there is a vacancy in the office; and
21

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

25 **WHEREAS**, November 6, 2018 is the date of the general statewide election; and

26 **WHEREAS**, Election Code §§9282-9287 set forth procedures for submittal of
27 arguments supporting or opposing any city ballot measure.
28
29

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

3 **Section 1** The City's General Municipal Election is hereby called and
4 ordered to be consolidated with the Statewide General Election to be held in said City of
5 Albany, State of California, on Tuesday, November 6, 2018, in accordance with the
6 provisions of the Albany City Charter and the Elections Code of the State of California,
7 for the purpose of voting upon City ballot measures and electing the following officers of
8 the City and the Albany Unified School District for the terms specified:
9

10 a. Two (2) Council Members for the City Council of the City of Albany, each
11 term commencing after the official canvass made by the Registrar of Voters and
12 continuing for four (4) years from the day of his or her induction.
13

14 b. Three (3) Members of the Board of Education of the Albany Unified
15 School District, each term commencing after the official canvass made by the Registrar of
16 Voters and continuing for four (4) years from the day of his or her induction.
17

18 c. A ballot measure to approve an ordinance amending Article 4-12, Chapter
19 IV of the Albany Municipal Code to extend the duration of an existing transactions and
20 use (sales) tax for general municipal purposes and administered by the California
21 Department of Tax and Fee Administration as set forth in Exhibit A, attached hereto and
22 incorporated by reference as if set forth herein word for word, and which may be lawfully
23 submitted at said election as set forth in this Resolution. The City Council hereby
24 approves the ordinance, the form thereof, and its submission to the voters of the City at
25 the November 6, 2018 election.
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1 d. A ballot measure to approve an ordinance enacting a special parcel tax to
2 fund the maintenance and improvements of City park and open space facilities as set forth
3 in Exhibit B, attached hereto and incorporated by reference as if set forth herein word for
4 word, and which may be lawfully submitted at said election as set forth in this Resolution.
5 The City Council hereby approves the ordinance, the form thereof, and its submission to
6 the voters of the City at the November 6, 2018 election.
7

8 e. A ballot measure to approve an amendment to Section 3.01 of the Albany
9 City Charter to provide that the City Treasurer be appointed by the City Council effective
10 December 1, 2020, or sooner if there is a vacancy in the office, as set forth in Exhibit C,
11 attached hereto and incorporated by reference as if set forth herein word for word, and
12 which may be lawfully submitted at said election as set forth in this Resolution. The City
13 Council hereby approves the ordinance, the form thereof, and its submission to the voters
14 of the City at the November 6, 2018 election.
15

16 **Section 2** Pursuant to the Albany City Charter and the laws of the State of
17 California, there is called and ordered to be held in the City of Albany, California on
18 November 6, 2018, an election for the purposes of submitting to the voters three ballot
19 measures as set forth in Exhibit A-C, incorporated herein by reference as if set forth
20 herein word for word. Pursuant to the Election Code Section 10400 et seq., the election
21 for this measure shall be consolidated with the statewide general election to be conducted
22 on November 6, 2018.
23

24 **Section 3** The questions to be presented to the voters shall be as follows:
25

26 (A) To continue providing and maintaining City services and facilities, shall the City
27

28 of Albany make its existing transactions and use (sales) tax permanent, providing
29

1 \$1.4 million annually for unrestricted general revenue purposes, without
2 increasing the rate, with annual independent audits, and all funds spent only in
3 Albany?
4

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

7 (B) To maintain park and open space facilities, with funding that cannot be taken by
8 Sacramento, including maintaining: City parks, ballfields, play structures, picnic
9 areas and restrooms; vegetation management to prevent wildfires; creek habitat;
10 and Albany Hill open space; shall the City of Albany enact a measure, levying an
11 ongoing park and open space parcel tax with a typical rate of \$69 for a single
12 family residence, providing \$464,000 annually, exempting low-income residents,
13 with annual independent audits, be adopted?
14

15 This question requires the approval of a 2/3 majority of qualified electors casting
16 votes at the election.
17

18 (C) Shall Section 3.01 of the Albany City Charter be amended, as set forth in the voter
19 pamphlet, to provide that the City Treasurer be appointed by the City Council
20 effective December 1, 2020, or sooner if there is a vacancy in the office?
21

22 This question requires the approval of a majority of qualified electors casting
23 votes at the election.
24

25 **Section 4** Pursuant to the requirements of Elections Code §10403, the Board
26 of Supervisors of the County of Alameda is hereby requested to consent and agree to the
27 consolidation of said election with the statewide election. The City of Albany
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1 acknowledges that the consolidated election will be held and conducted in accordance
2 with Elections Code §10418.

3 **Section 5** The City Clerk is hereby directed to submit a certified copy of the
4 ballot measures to the City Attorney, who shall prepare an impartial analysis for each of
5 the measures in accordance with Election Code §9280. The analyses shall be submitted
6 by the City Clerk to the Registrar of Voters, or other appropriate election official of
7 Alameda County for printing by August 10, 2018. Each analysis shall not exceed 500
8 words in length and shall otherwise comply in all substantial respects with the applicable
9 provisions of the Election Code of the State of California.

10 **Section 6** Arguments for and against the ballot measures may be filed in
11 accordance with this resolution and applicable provisions of the law. Direct arguments
12 for and against these measures shall be submitted to the City Clerk's office by no later
13 than 12:00 p.m. on Friday, August 17, 2018. Rebuttal arguments shall be submitted to
14 the City Clerk's office by no later than 12:00 p.m. on Friday, August 24, 2018. Any
15 direct argument shall not exceed 300 words in length and shall not be signed by more
16 than five persons. Any rebuttal shall not exceed 250 words in length and shall not be
17 signed by more than five persons; those persons may be different persons who sign the
18 direct arguments.

19 **Section 7** A subcommittee, or subcommittees, comprised of up to two
20 Council Members per subcommittee, as established by motion of the City Council, is
21 hereby authorized to prepare and file written arguments in favor or against the ballot
22 measures not to exceed 300 words, on behalf of the Albany City Council. At the
23 subcommittee's discretion, the arguments may also be signed by bona fide organizations

1 or by individual voters. A subcommittee comprised of up to two Council Members is
2 also hereby authorized to prepare and file a written rebuttal to an argument not to exceed
3 250 words, on behalf of the Albany City Council. At the subcommittee's discretion, the
4 rebuttal may also be signed by bona fide organizations or by individual voters.
5

6 **Section 8** Pursuant to Election Code §9285, when the City Clerk has selected
7 the arguments for and against the measures (Alameda County will issue the appropriate
8 Measure letter at a later time), which shall be printed and distributed to the voters, the
9 City Clerk shall send copies of the arguments in favor of the measures, to the authors of
10 the arguments against the measures, and copies of the arguments against the measures to
11 the authors of the arguments in favor of the measures.
12

13 **Section 9** The City Clerk is hereby directed to cause notice of the measures to
14 be published in a newspaper of general circulation, or any other newspaper designated as
15 an official newspaper of the City of Albany in accordance with Elections Code §12111
16 and Government Code §6061.
17

18 **Section 10** That pursuant to the Elections Code of the State of California, the
19 Board of Supervisors of the County of Alameda is hereby requested to consolidate the
20 General Election to be held at said County on November 6, 2018, with the Regular
21 General Municipal Election so that the election precincts, polling places and voting
22 booths shall in every case, be the same, and so there may be one set of election offices
23 and officers at each said election precinct, and one form of ballot, and provide for
24 expenses thereof, all as provided in said Elections Code of the State of California.
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1 **Section 11** That in all particulars not recited in this Resolution, said election
2 shall be held and conducted as provided by law for holding Municipal Elections in the
3 City of Albany.
4

5 **Section 12** That the Regular General Municipal Election, to be held in the City
6 of Albany, shall be canvassed by the Registrar of Voters of the County of Alameda, State
7 of California.
8

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

14 **Section 14** That the City Clerk of the City of Albany is hereby authorized
15 instructed and directed to provide the Alameda County Registrar of Voters with all
16 pertinent information and material as required.
17

18 **Section 15** That the City Clerk of the City of Albany is hereby authorized and
19 directed to file a copy of this Resolution immediately upon its adoption with the
20 appropriate County agencies. With the concurrence of the City Attorney, the City Clerk
21 is hereby authorized to make such minor, technical and clarifying changes to this
22 Resolution and/or the Exhibits hereto as may be deemed necessary and appropriate.
23

24 **Section 16** The City Council of the City of Albany shall meet at its usual
25 meeting place to review the certified statement of results of the election within 28 days of
26 the election and shall thereafter declare the results.
27

28 **Section 17** The Alameda County Registrar of Voters is hereby requested to
29 include the ballot measures, with the ballot questions, referred to herein and set forth in

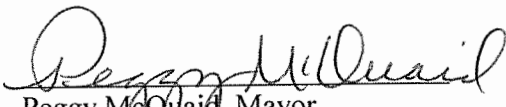
1 Exhibit "A" through Exhibit "C" in the voter pamphlet, and to number and designate the
2 ballot measures as appropriate.

3 **Section 18** The Voter Pamphlet shall include the ballot questions' wording to
4 the voters, the questions as presented before the text, and the exact wording of the
5 proposed Albany Municipal Code sections or present Albany Municipal Code or Albany
6 City Charter sections with language to be deleted shown in ~~strikeout~~ type and the
7 language to be added to be shown in underlined, *italicized*, or otherwise **highlighted** in
8 the Exhibits "A" through "C" attached hereto.

9 **Section 19** The approval of this Resolution is exempt from the California
10 Environmental Quality Act (CEQA). The transactions and use (sales) tax to be submitted
11 to the voters is a general tax that can be used for any legitimate governmental purpose; it
12 is not a commitment to any particular action or actions. The special parcel tax to be
13 submitted to the voters is dedicated to maintenance and improvements of City park and
14 open space facilities. However, the funding is not committed to any specific project; and
15 any future decisions to approve particular projects utilizing the tax proceeds will be
16 subject to environmental review at the earliest feasible time prior to the point at which
17 such future decisions are made. As such, under CEQA Guidelines Section 15378(b)(4),
18 neither tax is a project within the meaning of CEQA because they create a government
19 funding mechanisms that do not involve any commitment to any specific project that may
20 result in a potentially significant physical impact on the environment. If revenue from
21 either tax were used for a purpose that would have any such effect, the City would
22 undertake the required CEQA review for that particular project at the earliest feasible
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1 time prior to approval of the project. Therefore, under CEQA Guidelines Section 15060,
2 review under CEQA is not required prior to enactment of the taxes.

3
4 The undersigned hereby certifies that the foregoing is a full, true, and complete
5 copy of the Resolution duly passed and adopted by the City Council of the City of Albany
6 at a regular meeting thereof on the 16th day of July, 2018.

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10 Peggy McQuaid, Mayor

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City of Albany

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

RESOLUTION NO. 2018-98

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

The 16th day of July, 2018, by the following votes:

AYES: Council Members Barnes, Maass, Nason, Pilch and Mayor McQuaid

NOES: None

ABSENT: none

ABSTAINED: none

RECUSED: none

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

30th day of July, 2018.

Eileen Harrington
DEPUTY CITY CLERK

1 **EXHIBIT "A"**

2 **AN ORDINANCE AMENDING ARTICLE 4-12, CHAPTER IV OF THE CITY OF**
3 **ALBANY MUNICIPAL CODE EXTENDING THE DURATION OF A**
4 **TRANSACTIONS AND USE (SALES) TAX FOR GENERAL MUNICIPAL**
5 **PURPOSES ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX**
6 **AND FEE ADMINISTRATION**

7

To continue providing and maintaining essential City services, such as: fire and police protection, public safety and emergency response, facilities maintenance, and environmental preservation, shall the City of Albany measure making its existing one-half cent transactions and use (sales) tax permanent, providing \$1.4 million annually for unrestricted general revenue purposes, without increasing the rate, with annual independent audits, and all funds spent only in Albany, be adopted?	YES _____
	NO _____

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10 **ORDINANCE NO. 2018-07**

11 **AN ORDINANCE OF THE CITY OF ALBANY AMENDING ARTICLE 4-12,**
12 **CHAPTER IV OF THE CITY OF ALBANY MUNICIPAL CODE EXTENDING**
13 **THE DURATION OF A TRANSACTIONS AND USE (SALES) TAX FOR**
14 **GENERAL MUNICIPAL PURPOSES ADMINISTERED BY THE CALIFORNIA**
15 **DEPARTMENT OF TAX AND FEE ADMINISTRATION**

16 **WHEREAS**, Measure F was adopted by the voters in 2012 imposing a
17 Transactions and Use (Sales) Tax at the rate of one-half of one percent (0.5%) to remain in
18 effect for a period of eight years after the tax was first collected; and

19 **WHEREAS**, the proceeds of the tax imposed by Measure F have helped the City
20 of Albany to continue providing and maintaining a wide variety of essential public
21 services, including: fire and police protection, safety, and emergency response;
22 recreational programs, parks, playgrounds and open space; senior and youth programs and
23 facilities; community development; environmental preservation; and other general City
services and facilities; and

1 **WHEREAS**, the City has determined that it is in the best interest of the People of
2 Albany that the tax remain in effect permanently; and

3 **WHEREAS**, the tax, if its proposed extension is approved, would continue to be
4 imposed on the sale of tangible personal property and the storage, use, or other
5 consumption of such property; and the tax revenue would be collected by the California
6 Department of Tax and Fee Administration (performing functions formerly performed by
7 the California State Board of Equalization) and remitted to the City; and

8 **WHEREAS**, the tax, if its proposed extension is approved, would continue to be a
9 general tax that can be used for any legitimate governmental purpose and not committed to
10 any particular purposes; and the ballot measure extending the duration of the tax shall be
11 approved if it receives at least a simple majority of affirmative votes.

12 **NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO**
13 **ORDAIN AS FOLLOWS:**

14 **SECTION 1.**

15 This Ordinance is enacted in accordance with the authority granted to cities by
16 Article XI, Section 7, of the California Constitution and Revenue and Taxation Code
17 section 7285.9.

18 **SECTION 2.**

19 Chapter IV, Article 4-12, Section 4-12.17 of the City of Albany Municipal Code is
20 hereby amended to read:

21 **4-12.17 TERMINATION DATE**

22 The authority to levy the tax shall remain in effect unless a later ordinance terminating
23 said tax is adopted and approved by the voters.

1 **SECTION 3.**

2 All references in Article 4-12 of the City of Albany Municipal Code to the “State
3 Board of Equalization” are hereby deleted and replaced with “California Department of
4 Tax and Fee Administration.”

5 **SECTION 4.**

6 The People of the City of Albany find that all Recitals contained in this Ordinance
7 are true and correct and are incorporated herein by reference.

8 **SECTION 5.**

9 Pursuant to California Constitution Article XIII B, the appropriation limit for the
10 City of Albany is hereby increased by the aggregate sum authorized to be levied by this
11 special tax for fiscal year 2018/19 and each year thereafter.

12 **SECTION 6.**

13 The findings for this Ordinance in compliance with the California Environmental
14 Quality Act (“CEQA”) are the same as those set forth in City Council Resolution No.
15 2018-98 calling for an election on this Ordinance. The CEQA findings set forth in
16 Resolution No. 2018-98 are incorporated herein by reference.

17 **SECTION 7.**

18 If any provision of this Ordinance or the application thereof to any person or
19 circumstance is held invalid, the remainder of the Ordinance and the application of such
20 provision to other persons or circumstances shall not be affected thereby.

21 **SECTION 8.**

22 This Ordinance relates to the levying and collection of the City Transactions and
23 Use Taxes and shall take effect immediately.

1 Ordinance No. 2018-07 was submitted to the People of the City of Albany at the
2 November 6, 2018 general municipal election. It was approved by the following vote of
3 the People:

4 YES:
5 NO:

6
7 Ordinance No. 2018-07 was thereby adopted by the voters at the November 6,
8 2018 election and took effect upon adoption of a resolution declaring the results of the
9 election at a regular meeting of the City Council held on December ____, 2018 by the
10 following vote:

11 AYES:
12 NOES:
13 ABSENT:
14 ABSTAIN:

15 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly
16 and regularly adopted by the People of the City of Albany, California.

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Anne Hsu, City Clerk

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EXHIBIT "B"

**AN ORDINANCE OF THE CITY OF ALBANY ENACTING A
SPECIAL PARCEL TAX TO FUND THE MAINTENANCE AND
IMPROVEMENT OF CITY PARK AND OPEN SPACE FACILITIES**

To maintain and improve park and open space facilities, with funding that cannot be taken by Sacramento, including maintaining: City parks, ballfields, play structures, picnic areas and restrooms; vegetation management to prevent wildfires; creek habitat; and Albany Hill open space; shall the City of Albany measure levying an ongoing park and open space parcel tax with a typical rate of \$69 for a single-family residence, providing \$463,675 annually, exempting low-income residents, with annual independent audits, be adopted?	YES _____
	NO _____

ORDINANCE NO. 2018-05

**AN ORDINANCE OF THE CITY OF ALBANY ENACTING A
SPECIAL PARCEL TAX TO FUND THE MAINTENANCE AND
IMPROVEMENT OF CITY PARK AND OPEN SPACE FACILITIES**

WHEREAS, Albany residents have identified regular maintenance of City parks and open space as an important aspect of quality of life and a high priority for investment by the City to ensure that the community has access to a wide variety of recreational opportunities within the City, including both public park and open space areas that also help protect our local environment; and

WHEREAS, a critical component of the City's maintenance obligations in open space areas includes helping enhance native habitat as well as managing vegetation to help prevent wildfires that could lead to devastating consequences throughout the region; and

WHEREAS, the City of Albany—like all California cities—has faced decreasing revenues to make infrastructure investments and improvements to City parks and open space areas; and

1 **WHEREAS**, without a dedicated source of additional funding to invest in the ongoing
2 maintenance and improvement of Albany’s parks and open space, the City would be
3 unable to fully address needed maintenance obligations; and

4 **WHEREAS**, in 1996, City voters passed Measure R, and the City subsequently
5 formed a Landscape and Lighting Assessment District (the “LLAD”) consistent with the
6 measure to fund acquisition, improvement and maintenance of open space on Albany Hill,
7 recreational playfields throughout the City, and creek restoration and the City issued \$6.23
8 million in improvement bonds secured by the LLAD revenues. The LLAD assessment will
9 last be levied in 2019-20, and these bonds will be fully repaid in September 2019,
10 effectively closing out this available funding source for maintenance of City parks and
11 open space; and

12 **WHEREAS**, it is a priority of the City Council as identified in the City Council 2017-
13 2019 Strategic Plan to maximize parks and open space for the benefit of the community at
14 large, including the recent completion of a new park, Peggy Thomsen Pierce Street Park,
15 which will require ongoing maintenance to ensure the park remains enjoyable for all users;
16 and

17 **WHEREAS**, the City has conducted a number of planning processes resulting in the
18 development of guiding policies for the maintenance and improvement of the City’s public
19 parks and open space as included within the City’s General Plan, Climate Action Plan,
20 Parks Recreation and Open Space Master Plan, and Albany Hill Creekside Master Plan;
21 and

22 **WHEREAS**, the City has over a mile of natural creek area and has conducted a
23 number of projects to enhance local creeks and adjoining habitat, along with additional
projects planned for the future, that require ongoing monitoring and maintenance; and

1 **WHEREAS**, the City owns approximately 15 acres of land on Albany Hill that
2 requires ongoing maintenance as an open space public park, and the Albany Hill Creekside
3 Park Master Plan details maintenance activities for Albany Hill to protect, maintain and
4 enhance natural features, native vegetation and wildlife habitats, to protect cultural
5 resources and to improve basic access for the public; and

6 **WHEREAS**, the City maintains six public parks including the Dartmouth Tot Lot,
7 Memorial Park, Oceanview Park, Ohlone Greenway, Jewel's Terrace Park, and Peggy
8 Thomsen Pierce Street Park; and these parks include a wide range of facilities to maintain
9 such as ball field and play courts, play structures and equipment, restroom facilities,
10 landscaping and site furnishing such as benches, picnic tables and trash receptacles; and

11 **WHEREAS**, there are more than 5,000 city trees in Albany including trees on City
12 owned properties (such as parks and street medians) and street trees that require ongoing
13 maintenance, and the City continues to plant more City trees to help foster a robust urban
14 forest; and

15 **WHEREAS**, this ordinance would create a guaranteed source of local funding for the
16 maintenance and improvement of Albany's parks and open space areas that must be spent
17 locally for Albany residents; and

18 **WHEREAS**, the City of Albany acknowledges the benefits and value to the public
19 health and welfare of providing a wide variety of recreational opportunities within our
20 urban village; and

21 **WHEREAS**, in light of the foregoing benefits and considerations, the City wishes to
22 improve its commitment to City parks and open space areas for the benefit and enjoyment
23 of our entire community; and

1 **WHEREAS**, the City wishes to alleviate the impact of the proposed special tax on
2 low-income residents by providing a tax exemption for owner-occupants of single-family
3 and multi-family residences and by providing a tax rebate for renters residing in rental
4 units; and the City finds that provision of rebate payments is a permissible use of the
5 special tax revenues; and

6 **WHEREAS**, the proposed special tax to be submitted to the voters will be approved if
7 two-thirds of voters voting on the measure vote in favor of it.

8 **NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS**
9 **FOLLOWS:**

10 **SECTION 1.** This Ordinance is enacted in accordance with the authority granted to cities
11 by Article XI, Section 7, and Article XIII A, Section 4, of the California Constitution and
12 Government Code sections 50075 *et seq.*

13 **SECTION 2.** The People of the City of Albany find that all Recitals contained in this
14 Ordinance are true and correct and are incorporated herein by reference.

15 **SECTION 3.** Article 4-15 is hereby added to Chapter IV of the Albany Municipal
16 Code, to read as follows:

17
18 4- 15 **PARKS AND OPEN SPACE SPECIAL PARCEL TAX**

19
20 4- 15.1 **TITLE.** This Article shall be known as the “City of Albany Parks and
21 Open Space Facilities Special Parcel Tax.”

22 4- 15.2 **DEFINITIONS.**

1 A. "City" means the City of Albany.

2 B. "Consumer Price Index" or "CPI" means Consumer Price Index for All Urban
3 Consumers (CPI-U) for San Francisco-Oakland-San Jose as published by the U.S.
4 Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is
5 discontinued or revised, such other government index or computation with which it is
6 replaced shall be used in order to obtain substantially the same result as would be obtained
7 if the Consumer Price Index had not been discontinued or revised.

8 C. "Condominium/Townhouse" means an undivided interest in common in a
9 portion of real property coupled with a separate interest in space called a unit. A
10 condominium or townhouse unit is a parcel.

11 D. "Multi-family residential parcel" means all parcels that are improved with more
12 than one residential unit.

13 E. "Nonresidential parcel" means all parcels that are improved with uses other than
14 residences.

15 F. "Owner" means the owner or owners of the real property located within the City.

16 G. "Parcel" means any real property designated by an assessor's parcel map and
17 parcel number and carried on the secured property tax roll of the County of Alameda.
18

19 H. "Parks and Open Space" means any public park or open space owned by the City
20 of Albany including: six public parks referred to as Dartmouth Tot Lot, Memorial Park,
21 Oceanview Park, Ohlone Greenway, Jewel's Terrace Park, and Peggy Thomsen Pierce
22 Street Park; Albany Hill Open Space Area and Albany waterfront; over one mile of
23 Albany Creeks including Cerrito, Middle and Codornices Creek; City trees and street trees.

1
2 I. "Single-family residential parcel" means all parcels which are improved with
3 only one residential unit.

4 J. "Special tax" means the special tax imposed by this Article.

5
6 4-15.3 TAX IMPOSED.

7 A. An annual special tax in the amounts set forth in Section 4-15.4 is hereby
8 imposed on every parcel of real property within the City. The special tax shall first be
9 levied in fiscal year 2019-20. The annual assessment levied in City Landscape and
10 Lighting Assessment District No. 1996-1 ("LLAD 1996-1") is anticipated to terminate in
11 fiscal year 2018-19. In the event that the LLAD 1996-1 assessment terminates in a
12 different fiscal year, the special tax shall first be levied in the immediately subsequent
13 fiscal year.

14 B. The special tax constitutes a debt owed by the owner of each parcel of real
15 property to the City.

16 C. The special tax shall be levied and collected on each parcel of real property
17 within the City for which the owner receives a separate ad valorem property tax bill, at the
18 same time and manner, and subject to the same penalties and procedures as ad valorem
19 property taxes collected by the County of Alameda except as otherwise set forth in this
20 Article.

21 D. Real property otherwise wholly exempted from ad valorem tax by state law shall
22 also be exempted from any liability for the special tax.
23

1 E. The tax imposed by this Section shall be subject to the exemptions and rebates
2 set forth in this Section.

3 1. Single-family residential parcels and units on multi-family residential
4 parcels shall be exempt from the special tax if they are owned and occupied by a person or
5 persons whose combined family income, from all sources for the previous calendar year, is
6 at or below the income level qualifying as "very low-income" for a family of such size
7 under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 *et*
8 *seq.*), for such year. The application process will be in the form of self-certification under
9 penalty of perjury. Owners must apply for the exemption provided for in this Section
10 annually by application to the Finance Director in the manner and at the time set forth by
11 the Finance Director. Such applications shall be on forms provided by the Finance
12 Director and shall provide such information as the Finance Director may require. If the
Finance Director determines the need to audit an application, the Finance Director may
require additional information, including, but not limited to, federal income tax returns and
W-2 forms of owner-occupants eligible for this exemption.

13 2. Renters who reside in a residential rental unit within the City of Albany
14 whose combined family income, from all sources for the previous calendar year, is at or
15 below the income level qualifying as "very low-income" for a family of such size under
16 Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 *et seq.*),
17 for such year may apply for a rebate of the special tax imposed by this section that applies
18 to the rental unit in which they reside. Renters must apply for the rebate provided in this
19 section annually by application to the Finance Director in the manner and at the time set
20 forth by the Finance Director. Such applications shall be on forms provided by the
21 Finance Director and shall provide such information as the Finance Director may require.
22 If the Finance Director determines the need to audit an application, the Finance Director
23 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.

1 4-15.4 TAX RATES.

2 A. The rates of the special tax for each parcel type shall be as set forth in the table
3 below.

4 Parcel Type	Size of Parcel	Rate, per parcel, unit, or acre
5 Single-family Residential	Not Applicable	\$69.00 per unit
6 Condominium/Townhouse	Not Applicable	\$51.75 per unit
7 Multi-family Residential	Not Applicable	\$51.75 per unit
8 Non-Residential	< 0.25 acre	\$69.00 per parcel
9 Non-Residential	≥0.25 acre	\$259 per acre
10		

11 B. To keep the tax on each property in constant first year dollars for each year, the
12 annual tax rates listed in the above table shall be adjusted as set forth in this section to
13 reflect any increase in the Consumer Price Index beyond the first fiscal year the tax is
14 levied. The tax rate per year on each parcel for each year subsequent to the first year shall
15 be an amount determined as follows:

16 Tax rate for the current year	=	17 Tax rate for the preceding year	X	Change in Consumer Price Index from April of the immediately preceding year to April of the current year or 1.02, whichever is less
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18
19 In no event shall the special tax rate for any type of parcel for any year be less than the
20 amount established for the preceding year.

21 C. If a parcel consists of both residential and nonresidential real property, the tax
22 rate shall be the rate for nonresidential parcels.

1 D. The assessment roll data of the Alameda County Tax Assessor as of January 1 of
2 each year and City records shall be used to determine the actual use of each parcel of real
3 property for purposes of determining the amount of the special tax for each parcel.

4 E. For parcels divided by Tax Rate Area lines, the amount of the special tax for the
5 portion of the parcel within Alameda County shall be calculated at the same rates as set
6 forth above. For properties wholly within Alameda County and divided by Tax Rate Area
7 lines into multiple parcels, the property shall be taxed as a single parcel at the rates set
8 forth above.

9 F. For non-residential parcels 0.25 acres or larger, the tax shall be calculated by
10 multiplying the then-applicable rate by the actual acreage of the parcel. By way of example
11 only, and without limiting the general applicability of the foregoing, if a non-residential
12 parcel were 4.25 acres and the then applicable tax rate were \$259, then the tax for the
13 parcel would be \$1,100.75.

14 4-15.5 COLLECTION OF TAX. The special tax shall be collected in the same
15 manner as ordinary ad valorem taxes are collected and shall have the same lien priority
16 and be subject to the same penalties and the same procedure and sale in cases of
17 delinquency as provided for ad valorem taxes collected by the County of Alameda. The
18 City Council may provide for other alternative methods of collection of the special tax by
19 resolution.

20 4-15.6. COLLECTION OF UNPAID TAX. The amount of the special tax, any
21 penalty, and any interest imposed under the provisions of this Article shall be deemed a
22 debt to the City. Any person owing money under the provisions of this Article shall be
23 personally liable to an action brought in the name of the City, at its option, for the recovery
for such amount.

1 4-15.7 USE OF TAX REVENUE.

2 A. Revenue from the special tax, including penalties and interest thereon, shall be
3 used for park and open space maintenance and improvements, including but not limited to
4 maintenance of park and open space trails, including maintenance to prevent wildfires and
5 to restore native plants; park facilities such as ball fields and play courts, play structures
6 and equipment, restroom facilities, landscaping and site furnishing such as benches, picnic
7 tables and trash receptacles and general maintenance of the facilities for
8 repair/replacement of damaged and worn-out equipment and furnishings; adding new
9 amenities such as site furnishings and play field areas; restoration and maintenance of
creek and habitat areas; maintenance and enhancement of the City's urban forest including
planting, pruning and management of City street trees.

10 B. At the City Council's discretion, revenue from the special tax, including penalties
11 and interest thereon, may also be used to pay for the costs of holding an election to seek
12 voter approval of this Article, for the costs of administering the special tax, and for the
13 costs of defending the special tax and this Article, including attorneys' fees and related
costs.

14 C. Revenue from the special tax, including penalties and interest thereon, may also
15 be used to pay for rebates to qualifying low-income renters as provided in Section 14-
16 15.3(E)(2) of this Ordinance.

17 4-15.8 ACCOUNTABILITY. In accordance with the requirements of California
18 Government Code Sections 50075.1 and 50075.3, the following accountability measures,
19 among others, shall apply to the special tax:

20 A. A separate, special account, referred to as the Parks and Open Space Special Tax
21 Fund, shall be created, into which the proceeds of the special tax, including penalties and
22 interest earned on such proceeds, must be deposited.

1 B. The specific purposes of the special tax are for the funding of maintenance and
2 improvement of City park and open space facilities; for related election, administration,
3 and legal fees; and for rebates to low-income renters, as set forth in Section 4-15.7. The
4 proceeds of the special tax shall be applied only to those specific purposes.

5 C. The Finance Director shall annually prepare and submit to the City Council a
6 report regarding the special tax funds collected and expended, as well as any other
7 information required by Government Code sections 50075.1 and 50075.3.

8 4-15.9 ADMINISTRATION OF TAX. The City Council may establish rules
9 and regulations that it determines are necessary and desirable for administration and
10 implementation of this Article.

11 4-15.10 AMENDMENTS. This Article may only be amended by a vote of the
12 people if the amendment would result in the special tax being imposed, extended, or
13 increased in a manner not authorized by this Article as originally approved by the voters,
14 or if the amendment would substantially alter the purpose of the special tax. The City
15 Council may enact other amendments, including but not limited to amendments necessary
16 to implement or administer the special tax.

17 4-15.11 TERMINATION OF TAX. The authority to levy the special tax shall
18 remain in effect unless a later ordinance terminating said tax is adopted and approved by
19 the voters.

20 **SECTION 4.** Pursuant to California Constitution Article XIII B, the appropriation limit
21 for the City of Albany is hereby increased by the aggregate sum authorized to be levied by
22 this special tax for fiscal year 2018/19 and each year thereafter.

1 **SECTION 5.** The findings for this Ordinance in compliance with the California
2 Environmental Quality Act (“CEQA”) are the same as those set forth in City Council
3 Resolution No. 2018-98 calling for an election on this Ordinance. The CEQA findings set
4 forth in Resolution No. 2018-98 are incorporated herein by reference.

5 **SECTION 6.** If any provision of this Ordinance or the application thereof to any
6 person or circumstance is held invalid, the remainder of the Ordinance and the application
7 of such provision to other persons or circumstances shall not be affected thereby.

8 **SECTION 7.** This Ordinance relates to the levying and collection of a City special tax
9 and shall take effect immediately.

10
11 Ordinance No. 2018-05 was submitted to the People of the City of Albany at the
12 November 6, 2018 general municipal election. It was approved by the following vote of
13 the People:

14 YES:

15 NO:

16

17

18

19

20

21

22

23

1 Ordinance No. 2018-05 was thereby adopted by the voters at the November 6, 2018
2 election and took effect upon adoption of a resolution declaring the results of the election
3 at a regular meeting of the City Council held on December ____, 2018, by the following
4 vote:

5 AYES:

6 NOES:

7 ABSENT:

8 ABSTAIN:

9
10 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly
11 and regularly adopted by the People of the City of Albany, California.

12
13 _____
14 Anne Hsu, City Clerk
15
16
17
18
19
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22
23

1 EXHIBIT "C"

2 PROPOSED AMENDMENT TO SECTION 3.01 OF THE ALBANY CITY
3 CHARTER

4 Shall Section 3.01 of the Albany City Charter be amended, as set forth in 5 the voter pamphlet, to provide that the City Treasurer shall be appointed by 6 the City Council effective December 10, 2020, or sooner if there is a 7 vacancy in the office?	YES _____
	NO _____

8 The people of the City of Albany amend Section 3.01 of the Albany City Charter,
9 to read as follows:

10 SECTION 3.01. OFFICERS AND EMPLOYEES.

11 (a) All officers and department heads, ~~except as otherwise provided,~~ shall be
12 appointed by the City Council and shall hold office at the pleasure of the City Council.
13 ~~The City Treasurer shall be elected from the City at large, and shall hold office for four (4)~~
14 ~~years and until a successor is elected and qualified.~~ The Council shall establish by
15 ordinance the administrative offices of the City and shall designate the department heads
16 of the City. The City Council shall be empowered to create, abolish, or reorganize
17 departments and divisions as necessary for the proper administration of the City business,
18 but not inconsistent with other sections of this Charter.

19 (b) Effective December 10, 2020, or sooner if there is a vacancy in the office,
20 the City Treasurer shall be appointed by the City Council as provided herein. Effective at
21 the November 2010 election the City Attorney shall be elected from the City at large for a
22 term ending on December 5, 2011. Commencing December 6, 2011, or sooner if there is a
23 vacancy in the office, the City Attorney shall be appointed by the City Council as provided
herein.