

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: May 18, 2020

**SUBJECT:** Annual Sugar Sweetened Beverage Tax Study Session

**REPORT BY:** Nicole Almaguer, City Manager  
Isabelle Leduc, Assistant City Manager

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**SUMMARY**

In November 2016 Albany voters approved Measure O1, a general tax on sugar sweetened beverages. Per the Ordinance language, the City Council is to hold a study session annually to receive input and recommendations regarding the expenditure of proceeds from the tax. This report provides an update on the Council approved FY2020 Sugar Sweetened Beverage tax expenditure plan currently in progress and recommendations from staff, community members, and the City's Parks, Recreation & Open Space Commission, Social & Economic Justice Commission, Transportation Commission (previously Traffic & Safety Commission) for the proceeds from the sugar sweetened beverage tax in FY2021.

**STAFF RECOMMENDATION**

That the Council:

1. Receive an update on the FY2020 Sugar Sweetened Beverage tax expenditure plan
2. Conduct a study session to receive input and recommendations for the expenditure of proceeds from the Sugar Sweetened Beverage Tax
3. Provide a preliminary prioritization of items to be funded with the tax proceeds in FY2021.

**BACKGROUND**

In November 2016 Albany voters approved Measure O1, (Ordinance No. 2016-02), a general tax on sugar sweetened beverages. Per the Ordinance language, the Council shall hold a study session annually to receive input and recommendations regarding the expenditure of proceeds from the tax, and solicit recommendations from a number of organizations, including: the City's Parks, Recreation & Open Space Commission, Social & Economic Justice Commission, Transportation Commission, a designated representative from the Albany Unified School District, and individuals with specialized expertise in areas such as public health issues and programs relating to diabetes, obesity and sugary drink consumption.

## **DISCUSSION**

The Council held a study session on April 1, 2019 to discuss options for expenditure of the sugar sweetened beverage tax proceeds and on May 6, 2019 approved the Fiscal Year 2020 Sugar Sweetened Beverage Tax expenditure plan (Attachment 1) to support programs that work to improve public health, with a focus on children and at-risk populations, including both educational and physical activity programs and one-time expenditures such as the purchase and installation of water bottle filling stations. A status update on Fiscal Year 2020 programs follows.

### **FY2020 Sugar Sweetened Beverage Tax Program Update**

- 1) Purchase and installation of one bottle filler – One combination unit bottle filler/water fountain was installed at City Hall for a total installation of 8 fillers city wide. 7 other water bottle filling stations were installed at City parks and the Community Center during FY2019. Water bottles with SSB logo were also ordered for distribution in the community.
- 2) Free Physical Fitness Classes in Parks – Since May 2019, the Recreation and Community Services Department has been offering free fitness classes such as Tai Chi, dance parties, gentle yoga, ultimate frisbee, and fitness bootcamp with infant/toddler. Tai Chi and Dance parties have had the highest participation. Gentle Yoga is being offered virtually through the month of May.
- 3) Free Nutrition/Cooking Classes – Since June 2019, the Recreation and Community Services Department has been offering a variety of free classes. There have been approximately 745 participant engagements since the beginning of the fiscal year in programs subsidized with SSB tax proceeds. Programs provided include 11 free youth cooking summer camps, 34 free adult cooking classes and 20 free youth cooking classes. Free gardening classes taught by local Master Gardeners are being offered virtually in May/June 2020. Late cancellations, no shows for youth cooking camps and classes filing up quickly were challenges experienced with the provision of free classes.
- 4) Crossing Guard Program – All City Management Services (ACMS) continues to provide crossing guard services during the school year. Contracting services has helped to lessen the workload and demands placed on the police department by this program.
- 5) Safe Route to Schools – Bike Safety Program - Program is provided through the non-profit Cycles of Change and has been implemented at Albany Middle School. Live webinars on bike safety and encouraging safe exercise will be provided to schools that are interested.
- 6) Healthy Me Music & Movement program - Program is implemented by Healthy Me Kids and was provided to 228 children in 4 preschool classrooms, 2 transitional kindergarten classrooms and 8 kindergarten classrooms in the Albany Unified School district.

## Sugar Sweetened Beverage Tax Recommendations for FY2021

Per the Ordinance, Council shall hold a study session to receive input and recommendations regarding the expenditure of proceeds from the tax. Recommendations have been received from the City's Parks, Recreation and Open Space Commission, Social & Economic Justice Commission, and the Transportation Commission (Attachments 2-4). Recommendations received as of the posting of the study session Agenda from community members, individuals with specialized expertise in areas such as public health issues and programs relating to diabetes, obesity and sugary drink consumption is included (Attachment 5). A summary table of programs suggestions (Attachment 6) has been created to assist Council in the preliminary prioritization of items. Whenever possible, rough cost estimates have been included to help inform the discussion regarding possible expenditures.

Overlapping interest based on the recommendations received include using the Sugar Sweetened Beverage Tax proceeds to continue successful programs currently funded by the tax:

- Funding for the contract with All City Management Services (ACMS) for the Crossing Guard program (Transportation Commission, Social & Economic Justice Commission)
- Funding for Safe Routes to School bike safety program
- Funding for Healthy Me & Movement classes

Further recommendations from individuals with specialized expertise in areas such as public health issues and programs relating to diabetes, obesity and sugary drink consumption and from the Albany Unified School District is also anticipated for presentation to the Council.

The preliminary prioritization of items to be funded with the tax proceeds in FY2021 by Council should be based on typical usage of the tax proceeds, not be specific to the COVID-19 pandemic and associated shelter in place order, with the understanding that the committing and spending of the funds may be delayed. There are many uncertainties currently. Revenue collection may be delayed as requirements for returns and remittance of tax collected have been suspended during the period covered by the shelter in place order to provide businesses with administrative relief. Staff will be checking in with the Council regularly regarding budget and incoming revenue levels so that the Council can make informed decisions in an adaptive manner as we work through the pandemic and the ongoing economic uncertainties.

## **SUSTAINABILITY IMPACT**

Many of the recommended usages of the sugar sweetened beverage tax proceeds would have a positive impact on environmental sustainability including promotion of alternative modes of transportation (biking/walking).

## **FINANCIAL IMPACT**

Sugar Sweetened Beverage Tax is General Fund revenue that the City Council has agreed to set aside for specific purposes and approved expenditures are incorporated into the City's annual operating budget. The City utilizes the services of Avenu Insights (formerly named MuniServices) to administer collection of the sugar sweetened beverage tax. Collection of the tax began in April 2017. The City has received a total of \$828,699 in proceeds from the tax between April 2017 and March 2020 (Attachment 7). The City's Finance Department staff projects that approximately \$225,000 in revenue will be collected in FY2021. The following table provides an estimate of the funding available for programming in FY2021.

Proceeds Received April 2017-March 2020	\$828,699
Expenses Paid April 2017-March 2020	(\$567,005)
Projected expenses April – June 2020	(\$5,000)
Estimated Proceeds April 1, 2020 - June 30, 2021	\$250,000
<b>Estimated Proceeds Available</b>	<b>\$506,694</b>

Over the past few months, the City has been adapting to the changing State and County restrictions, as well as the needs of the local business community. One of the changes implemented by the City was the deferral of Sugar Sweetened Beverage tax return and remittance requirements. Similar to the State's Sales Tax deferral program, the City is allowing businesses extra time to file and pay returns. Returns must be filed and the tax must be remitted within 45 days of lifting the City's Emergency Declaration.

## **NEXT STEPS**

Pending direction provided by the Council, staff will work to provide more detailed cost estimates on projects/programs that are given a high priority by the Council for inclusion in the upcoming budgeting cycle.

## **Attachments**

1. FY2020 Expenditure Plan for Sugar Sweetened Beverage Tax proceeds
2. Parks, Recreation & Open Space Commission Sugar Sweetened Beverage Tax expenditure recommendations
3. Social & Economic Justice Commission Sugar Sweetened Beverage Tax expenditure recommendations
4. Transportation Commission Sugar Sweetened Beverage Tax expenditure recommendations
5. Emails received to date – Sugar Sweetened Beverage Tax Program Suggestions
6. Summary Table – Sugar Sweetened Beverage Tax Program Suggestions
7. Revenue by month April 2017- March 2020
8. Sugar Sweetened Beverage Tax Ordinance

**FY2019/2020 EXPENDITURE PLAN  
FOR SUGAR SWEETENED BEVERAGE TAX PROCEEDS**

**Approved by Council May 6, 2019**

In November 2016 the City of Albany voters approved Measure O1, a tax on sugar sweetened beverages. The draft expenditure plan provides preliminary information including cost estimates for proposed programs to be implemented with sugar sweetened beverage tax proceeds during fiscal year 2019-2020. The plan considers funding for programs currently funded with sugar sweetened beverage tax revenue, focuses on City programs and opportunities as expressed by the Council.

Expenditures include the installation of water bottle filling stations at locations to be determined depending on availability and proximity of water lines, continued funding for free physical fitness and nutrition/cooking classes that support and improve public health with a focus on children and adults, and continued funding for the crossing guard program which alleviates demands on the police department. New programs for the funding include Safe Routes to School – Bike Safety program which teaches 4<sup>th</sup> & 5<sup>th</sup> grade student street riding safety, and Healthy Me Music & Movement program which teaches preschool, transition kindergarten and kindergarten students, the importance of good nutrition, drinking water, fitness, hygiene, and social skills through props (picture cards and puppets), singing, dancing, and instrument play.

**Projects and Programs Fiscal Year 2019/2020**

**1) Installation of Water Bottle Filling Stations**

Potential locations include City Hall, Senior Center, Solano Avenue, San Pablo Avenue and the Ohlone Greenway. Installation feasibility will depend on availability and proximity of water lines. It is estimated that approximately 6-8 filling stations can be installed with this amount of funds, pending additional analysis to determine most functional sites for installation.

Cost: \$90,000

**2) Free Nutrition, Cooking & Gardening programs**

Free nutrition/cooking and gardening camps and classes for youth and adults will be offered to residents. The Recreation & Community Services Department currently offers a number of cooking/nutrition classes and camps during the year that can be offered free to encourage nutritional awareness and healthy eating.

Cost: \$35,000

### **3) Free Physical Fitness Classes in Parks**

Free physical fitness classes for youth and adults will be offered in city parks. The free classes are intended to provide an opportunity to expose residents to various exercise options and promote a healthy lifestyle. Free classes would include yoga, Tai Chi, youth sports/fitness, and dance. Depending on community response, free classes could be an ongoing offering.

Cost: \$20,000

### **4) Crossing Guard Program**

The crossing guard program has been provided by All City Management Services (ACMS) for the FY2018/19 school year and funded by sugar sweetened beverage tax proceeds. Contracting for the service has helped to lessen workload and demand placed on the police department allowing staff to focus on law enforcement duties and internal matters related to the operations of the police department rather than the management of an ancillary program.

Cost: \$130,000

### **5) Safe Route to Schools – Bike Safety Program**

The “Drive Your Bike” program provides intensive education and training courses for bicycling to 4<sup>th</sup> and 5<sup>th</sup> grade students, typically during PE class. Students first learn street riding safety on school grounds, and the program culminates in an on-street ride field trip. Students learn how to perform a bike safety check, adjust helmets, communicate with traffic, abide by the rules of the road, communicate at intersections, and safely navigate their school’s neighborhood by bike. The program is offered through the non-profit Cycles of Change.

Cost: \$20,000

### **6) Healthy Me Music & Movement program**

The Healthy Me Music & Movement Program designed for young students consists of a weekly 25-minute class for a session of 9-12 consecutive weeks in each classroom that focuses on important health topics such as nutrition, the importance of drinking water, fitness, hygiene, and social skills. The health lesson is introduced at the beginning of each class through a developmentally appropriate mini-lesson with visuals and props (picture cards, puppets, realia), singing, dancing, and instrument play. The program is provided by founder Natalia Bernal and her team and is currently implemented in Berkeley Unified School District schools. The Healthy Me program in Albany would be offered to AUSD preschools, transitional kindergarten and kindergarten classrooms as well as other preschools in the city.

Cost: \$10,000

**Sugar Sweetened Beverage Tax  
Fiscal Year 2019-2020 Budget**

<b>Description</b>	<b>Cost</b>
Water Bottle Filling Stations	\$90,000
Free Nutrition/Cooking/Gardening Classes	\$35,000
Free Physical Fitness Classes in Parks	\$20,000
Crossing Guard Program	\$130,000
Safe Route to School Program	\$20,000
Healthy Me Music & Movement program	\$10,000
<b>Total</b>	<b>\$305,000</b>

# ALBANY CALIFORNIA

CITY OF ALBANY



COMMUNITY CENTER

1249 MARIN AVENUE

ALBANY, CA 94706

510 524-9283

[www.AlbanyCA.org/rec](http://www.AlbanyCA.org/rec)

## MEMO

May 7, 2020

**To:** City Council

**From:** Parks, Recreation & Open Space Commission

**Subject:** Sugar-Sweetened Beverage Tax Recommendation

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On May 7, the Parks, Recreation & Open Space Commission discussed potential uses for sugar sweetened beverage tax proceeds and unanimously approved a motion recommending the following programs:

1. Crossing Guard Contract - \$130,000
2. Safe Route to School bike safety program - \$20,000
3. Healthy Me & Movement classes - \$10,000
4. Support activation of the Bulb through activities, improvements, signage and other methods for the enjoyment of the community - \$10,000
5. Promote the planting of additional street trees through either subsidized or free street trees to encourage livability and aesthetics of the community. - \$40,000



# ALBANY CALIFORNIA



**CITY OF ALBANY**  
1000 SAN PABLO AVENUE  
ALBANY, CA 94706  
[www.AlbanyCA.org](http://www.AlbanyCA.org)

## MEMO

May 5, 2020

To: City Council

From: Social & Economic Justice Commission

Subject: Sugar-Sweetened Beverage Tax Recommendation

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Given the ongoing economic reality and likelihood of the ongoing crisis we decided to focus upon the following 2 priorities which were unanimously approved by motion:

1. Our first priority is to use sugar-sweetened beverage tax proceeds for issues of food insecurity experienced by seniors, children and families during this time of stress.
2. Our second priority is funding of the crossing guard program for the school year 2020-2021 should revenue not be available from other sources.

# ALBANY CALIFORNIA

CITY OF ALBANY



COMMUNITY DEVELOPMENT

1000 SAN PABLO AVENUE

ALBANY, CA 94706

510 528-5760

[www.AlbanyCA.org/cd](http://www.AlbanyCA.org/cd)

March 10, 2020

To: City Council

From: Traffic & Safety Commission

Subject: Recommended Uses for Sugar-Sweetened Beverage Tax

On February 27, 2020, the Commission discussed the 2016 ballot measure taxing sugar-sweetened beverages, and unanimously approved a motion recommending the following programs and projects for use of tax revenue (in order of priority):

1. School crossing guard program
2. Safe Routes to School bike safety program
3. Curb extension (bulb-out) at the southeast corner of Talbot Ave and Marin Ave narrowing the crossing of Marin Avenue in conjunction with the planned flashing beacon
4. Rectangular rapid flashing beacon installation at a crossing of Marin Avenue east of Peralta
5. Additional bicycle parking at Albany High School

Thank you for providing the Commission an opportunity to comment.



**Subject:**



Fwd: sugar-sweetened tax spending

**Date:**

Wednesday, May 6, 2020 9:29:23 PM

**Attachments:**

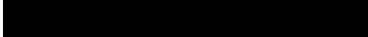
[MoffatSugar-SweetenedTaxLetter.docx](#)  
[ATT00001.htm](#)

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Hi!



Begin forwarded message:

**From:** Susan Moffat 

**Date:** May 6, 2020 at 9:12:16 PM PDT

**To:** "PARKS, RECREATION & OPEN SPACE" <PROSC@Albanyca.org>,  
citycouncil <citycouncil@albanyca.org>

**Subject:** sugar-sweetened tax spending

**Warning: This email originated from outside the City of Albany. Think before you click!**

To the Parks, Recreation and Open Space Commission and the City Council,

I would appreciate it if you would consider the attached comments on the sugar-sweetened beverage tax.

Thank you.

Best,  
Susan Moffat

May 6, 2020

To the Albany Parks, Recreation, and Open Space Commission:

I hope you will consider establishing a **Waterfront Wellness** program as a way to make good use of sugar-sweetened beverage tax revenues. Encouraging healthy outdoor physical activity at the city-owned park at the Albany Bulb, as well as walking and bicycling to and from the Bulb, would be a great way to fight obesity and support public health in Albany.

**Inclusive programming that measurably increases physical activity in an inclusive way**

Providing sports facilities for athletes is a good thing, but getting sedentary people to move even a little bit is even more important for public health. It's good to get creative in order to get people moving, and providing attractions for people who think they don't like exercise—as well as those who love it—is important. Ensuring opportunities for people of all ages and physical abilities is also essential.

It would be great to fund programs that can be shown to encourage long-term healthy habits of physical activity. It would be good to focus on activities that are inclusive, culturally welcoming, and that consider the needs of lower-income people, currently less-active people, and people who may not have a particular interest in exercise.

**Waterfront Wellness**

The City should consider starting a **Waterfront Wellness** program that provides a variety of activities that makes a positive health impact by getting new participants into physical activities outdoors.

The Albany shoreline represents an underutilized resource for both healthy physical activity and the mental health benefits of being outdoors in nature, with stress-reduction benefits that can help fight obesity.

A **Waterfront Wellness** program could

- Show people how to walk, run, or bicycle safely from central Albany to the shoreline
- Offer yoga, tai chi and movement/dance classes outdoors at the waterfront
- Combine environmental education, gardening, and arts activities with exercise
- Attract more families to healthy exercise by combining cultural and physical activities, such as bicycling+art-in-nature, or hiking to outdoor music activities

**Exercise during social distancing**

Since social distancing may be required to some extent throughout fiscal 2021, spending should be focused on health-enhancing activities that can be carried out consistent with social distancing. Because of its wide-open spaces, rare in densely-built Albany, the shoreline presents a unique opportunity for exercise and mental health-enhancing activities in circumstances when indoor exercise and some parks and playgrounds are off-limits.

Through online communication and education, whether through social media or Zoom, many of the activities listed above could be carried out without gathering in large groups. For example, an online video guide or live slideshow on how to walk to the shoreline and fun activities such as sharing photos along the route could substitute for a walking tour if necessary.

An exercise-and-art tour of the Bulb could be made available via audio or video. Fun nature exploration + exercise activities designed for small family groups could help families stay active. Maps and podcasts could help more people learn good jogging routes and spots for exercise.

### **Love the Bulb: a track record of successful outdoor events**

The non-profit organization I lead, Love the Bulb, would be pleased to offer both in-person activities, and, if necessary, online activities, building on our strong track record of presenting outdoor programming at the Bulb. You can see highlights of past events at [albanybulb.org/what-we-do](http://albanybulb.org/what-we-do).

Since 2016, we have presented more than 45 public events at the Albany Bulb. Almost every one of them has gotten participants to walk a minimum of one mile—the roundtrip walk from the parking lot to the city-owned land at the Bulb. Those who arrive by bicycle or walking get even more exercise.

Our dance, movement, and tai chi workshops have provided physical activity for people from 8 to 80+. Our native planting stewardship projects provide regular outdoor exercise through gardening. And our art in nature and environmental education activities include a good deal of physical activity, as do our art and history tours and dance and theater performances.

We always encourage our participants to arrive via bicycle and walking, and we provide detailed instructions for first-timers who may be reluctant to pass under the freeway. We would love to lead exercise activities that start east of the freeway and end up at the Bulb.

### **Attracting participants with diverse types of outdoor activities**

Having a special activity as a destination can be a good attractor. For example, we partnered with the non-profit organization Rich City Rides on a bicycle ride from downtown Richmond to the Albany Bulb. Children, young adults and seniors rode the Bay Trail to the Bulb in order to participate in an art-in-nature workshop, showing the possibilities of combining cultural activities and exercise for multifaceted day of wellness.

Stress reduction is an important part of fighting obesity and overeating, and maximizing use of our unique shoreline for this purpose would also be consistent with the goals of the tax. The nature and views of the Bulb are a great mental health as well as physical health resource.

### **Existing relationships, logistical and site knowledge**

We would love to expand our programming with support from the City. We have a successful partnership with the Friends of Albany Parks program that has brought scores of volunteers to plant and maintain a beautiful native plant garden at the Bulb, and we'd like to build on that.

Love the Bulb has a solid track record of programming that appeals to a wide range of interests and abilities, and we have extensive experience dealing with the logistical challenges of carrying out programming at the Bulb, which include weather, wind, tides, physical safety, parking, and maintaining cordial relations among multiple user groups including dogwalkers, kiteboarders, kayakers, bicyclists, joggers, etc.

We are especially interested in expanding our programming for people with physical disabilities, who face challenges of obesity like everyone else, and have been in conversation with BORP, a well-established non-profit that provides adaptive bicycles and other transportation for children and adults to get outdoors.

Love the Bulb is fiscally sponsored by Earth Island Institute, a well-respected non-profit organization, and have a solid track record of programming that appeals to a wide range of interests and abilities.

I hope that the Parks, Recreation and Open Space Commission will maximize the incredible health resource that we have at the Albany Bulb. Using the space more effectively wouldn't require any capital improvements, and spending funds on programming could have a big impact that squarely addresses the health goals of the sugar-sweetened beverage tax.

Sincerely,

Susan Moffat  
Albany Resident  
Founder, Love the Bulb

[Albanybulb.org](http://Albanybulb.org)

[Facebook.com/lovethebulb/](https://www.facebook.com/lovethebulb/)

We Love the Bulb Facebook group: <https://www.facebook.com/groups/526057524255509>

**From:** [REDACTED]  
**To:** [citycouncil](#)  
**Date:** Wednesday, May 6, 2020 3:46:01 PM

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**Warning: This email originated from outside the City of Albany. Think before you click!**

Dear City of Albany Council,

I am emailing you in support of creating programming to encourage outdoor physical activity at the Bulb, and to encourage people to get to and from the Bulb by bike and on foot.

I think that this would be a good use of the soda tax.

Thank you for your consideration,

Hugo Larman, landscape architect and former member of the parks and recreation commission

604 Key Route Blvd.

Albany Ca. 94706

**From:** [REDACTED]  
**To:** [PARKS, RECREATION & OPEN SPACE](#)  
**Cc:** [citycouncil](#)  
**Subject:** Waterfront Wellness  
**Date:** Wednesday, May 6, 2020 8:28:10 PM

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**Warning: This email originated from outside the City of Albany. Think before you click!**

To the Albany Parks, Recreation, and Open Space Commission:

I'm writing to support the idea of using a portion of soda tax revenues to fund wellness-related activities at the Albany Bulb. Creating programming to encourage outdoor physical activity at the Albany Bulb, and to encourage people to get to and from the Bulb by bike and on foot, would be an excellent use of the soda tax.

Sincerely,  
David Pontecorvo  
Albany, CA





Date:



Thursday, May 7, 2020 12:12:17 AM

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**From:** Lisa J. Pontecorvo [REDACTED]  
**Sent:** Wednesday, May 6, 2020 11:43 PM  
**To:** PARKS, RECREATION & OPEN SPACE <PROSC@albanyca.org>; citycouncil <citycouncil@albanyca.org>  
**Subject:** SSB Tax for Waterfront Wellness

**Warning: This email originated from outside the City of Albany. Think before you click!**

To the Parks, Recreation, and Open Space Commission,

As an Albany resident for more than twenty years, I highly recommend that a portion of the Sugar Sweetened Beverage Tax be allocated to fund wellness programming at the Albany Bulb. The Bulb is an underutilized City-owned space with great potential to engage more people in healthy physical activity in a unique natural and cultural landscape. Creating programming to encourage movement and exercise by people of all ages and ability levels, and to encourage participants to get to and from the shoreline by bike and on foot, would be an excellent use of the soda tax.

A new Waterfront Wellness program at the Albany Bulb would align well with the goals of the SSB tax. Such a program could be implemented by Love the Bulb, a trusted non-profit organization with a successful track record of leading events that have creatively enlivened the space and actively engaged the community. I hope you will dedicate funds to support wellness at the waterfront.

Thank you,

Lisa Jacobs - Pontecorvo  
Albany, CA



**Subject:** Fwd: Friendship club wages - sugar tax or other funding?  
**Date:** Thursday, May 7, 2020 8:48:12 AM

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**From:** Britt Tanner [Redacted]  
**Date:** May 7, 2020 at 7:12:57 AM PDT  
**To:** "PARKS, RECREATION & OPEN SPACE" <PROSC@Albanyca.org>  
**Subject:** Friendship club wages - sugar tax or other funding?

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Hi

I wanted to suggest that we consider raising the wages for people working at Friendship club. It seems like there might be a difficulty hiring or retaining good people there. The counselors do excellent work with the kids and deserve to be paid more than \$15 an hour. This might not be something that the soda fund can pay for, but something that I want I have been meaning to recommend for a while.

Britt

**From:** [REDACTED]  
**To:** [PARKS, RECREATION & OPEN SPACE](#); [citycouncil](#)  
**Subject:** Soda Tax use for Wellness for Albany  
**Date:** Thursday, May 7, 2020 9:28:07 AM

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**Warning: This email originated from outside the City of Albany. Think before you click!**

To the City Council-

I am writing to support creating programming to encourage outdoor physical activity at the Bulb, and to encourage people to get to and from the Bulb by bike and on foot would be a good use of the soda tax.

I have been an Albany resident since 1999 and my two children went through our schools K-12. The Bulb has always been an important for us, and the environmental and arts programs offered through Love the Bulb have greatly enhanced the community's ability to come together for many great activities.

As an artist who has both created work for and participated in Love the Bulb sponsored arts programs, I know the group to be highly effective at outreach and organization to achieve their goals of bringing people of all ages and backgrounds to the Bulb, with creative and environmentally sound participatory programs.

I hope we can use soda tax funds to expand the programming to be as inclusive as possible to help improve the physical and mental health of Albany residents.

Sincerely,

Carol Newborg  
Albany Resident

[www.carolnewborg.com](http://www.carolnewborg.com)

*It's not what we say or think, but what we do that defines us. - Jane Austen*



**Subject:**  
**Date:**



Fwd: Invest soda tax revenue in the Bulb  
Thursday, May 7, 2020 1:01:34 PM

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Begin forwarded message:

**From:** Andrea Wood [REDACTED]  
**Date:** May 7, 2020 at 1:00:20 PM PDT  
**To:** "PARKS, RECREATION & OPEN SPACE" <PROSC@Albanyca.org>, citycouncil <citycouncil@albanyca.org>  
**Subject:** Invest soda tax revenue in the Bulb

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To the Albany Parks, Recreation, and Open Space Commission:

I am a resident and voter in Albany and I am writing to encourage more investment in our lovely Albany Bulb by the Parks, Recreation, and Open Space Commission. At a time requiring social distancing from now and into the foreseeable future, investing in open space resources that allow for outdoor enjoyment while also following social distancing protocols is crucial.

The Albany Bulb is an incredible resource and with additional investment could be a center for community health, wellness, and exercise. Ideas for utilizing the Bulb might include:

- Signage or encouragement for citizens to walk, run, or bicycle safely from central Albany to the shoreline;
- More open-air classes that leverage the ample outdoor space at the Bulb including dance, yoga, or tai chi;
- Creating hybrid workshops that include short walks or hikes combined with environmental education, gardening, and arts activities;
- More family-friendly events that combine healthy exercise with cultural and physical activities, such as bicycling+art-in-nature, or hiking to outdoor music activities.

As a tax payer and voter, I believe resources from the soda tax should be invested in programming to encourage outdoor physical activity at the

Bulb. Thank you!

Andrea Wood  
Albany Resident  
917 Taylor St.

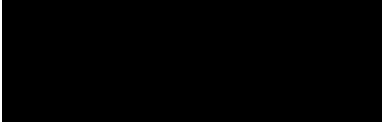


**Subject:**  
**Date:**



Fwd: Sweetened Beverage Tax  
Thursday, May 7, 2020 3:06:31 PM

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Begin forwarded message:

**From:** Sarah McDonald [REDACTED]  
**Date:** May 7, 2020 at 2:51:41 PM PDT  
**To:** "PARKS, RECREATION & OPEN SPACE" <PROSC@Albanyca.org>, citycouncil <citycouncil@albanyca.org>  
**Subject:** Sweetened Beverage Tax

**Warning: This email originated from outside the City of Albany. Think before you click!**

To the Albany Parks, Recreation and Open Space Commission,

I am writing as an Albany Resident in the hopes that you will consider using some of the money generated from the Sweetened Beverage Tax on wellness programming at the Albany Bulb. The Albany Bulb is one of my favorite Bay Area locations to move around outside, and I think it holds tremendous potential for the community. The park has extensive trails in addition to wheelchair accessible locations near the beach which makes inclusive movement programming an attainable priority. Not only does the area provide space for physical movement, the beautiful views of the Bay and proximity to nature provides benefits for mental health as well. As we all deal with the stress of this public health crisis, I find it helps to feel part of community discussions surrounding physical and mental health, so I thank you for your time.

I hope my letter finds you well.

All the best,

Sarah McDonald  
Bookseller at Pegasus Books on Solano



**Subject:**  
**Date:**



FW: PROSC 4.7.2020 item 6.1: Sugar Sweetened Beverage Tax  
Thursday, May 7, 2020 4:59:55 PM

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One more....

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**From:** Ken McCroskey [REDACTED]  
**Sent:** Thursday, May 7, 2020 4:59 PM  
**To:** PARKS, RECREATION & OPEN SPACE <PROSC@albanyca.org>  
**Subject:** PROSC 4.7.2020 item 6.1: Sugar Sweetened Beverage Tax

**Warning: This email originated from outside the City of Albany. Think before you click!**

Dear Commissioners,

I'm writing to inform you of some alignment between your draft Soda Tax Revenue spending recommendations and those of the Transportation Commission (TC), to add some information, and to make my own comments.

Here is the relevant, unanimous resolution from the February 27 Transportation Commission meeting minutes (numbers are mine): ([https://albanyca.granicus.com/MetaViewer.php?view\\_id=9&clip\\_id=2173&meta\\_id=128117](https://albanyca.granicus.com/MetaViewer.php?view_id=9&clip_id=2173&meta_id=128117))

Del Rosario/Javandel: Moved to recommend to the City Council consider the following programs in the order stated:

1. crossing guard program,
2. Safe Routes to School Program (elementary school bicycle training),
3. Installation of a bulb-out at the southwest corner of the Talbot-Marin intersection,
4. Installation of an Rectangular Rapid-Flashing Beacon on Marin east of Peralta,
5. and bike racks at Albany High School.

Ayes: Javandel, Jordan, Paulsen, McCroskey, del Rosario

Noes: None

Abstain: None

Absent: None

Additional data and my comments:

1. The Crossing Guard program is the most expensive past allocation of the funds, at \$130k. It's also one of the most direct, daily safety measures for families. The TC made this our first priority.
2. The learn to ride program takes place in all our elementary schools and the middle school. It ensures that all kids moving up to middle school have the skills needed to ride there if they choose. It's been very effective in encouraging kids to safely get themselves to school. I consider this a bargain at \$20k.
3. We didn't have a price estimate, for this bulb-out, but a ballpark is around \$15k. There is a plan to install a rapid flashing beacon here, but the crossing is wide, and this is the only current crossing guard location that is not supported by a narrowed street or traffic light. (The other crossing guard location not supported by a traffic light also borders Cornell School.)
4. This section of Marin has wide crossings, wide-radius turns that motorists can take quickly, and blind turns on Marin.
5. More students and staff than ever are on the AHS site. Recent construction has left a hodgepodge of racks, some in awkward locations. Old racks from other sites have been pressed into service. A refresh and update is needed on-campus to provide modern, secure bike parking to all. \$10-20k.

I notice that your staff recommendations memo includes many worthy programs. I want to respond to the idea of helping bring **bike sharing** to Albany. The TC has long dealt with this issue, and is always seeking to add mobility options. Albany has, in fact, been very welcoming to companies that wish to offer service in Albany. What we have found is that Albany won't have deckles bike or scooter sharing until the cities on both sides of us do, so that that we are part of a shared pool that covers most desired destinations. Joining the docked bike share program is, as I understand it, a vastly more expensive proposition, and might require hundreds of thousands to millions of dollars, and also wouldn't be effective unless El Cerrito joined Berkeley and Albany in participating.

Thanks for your consideration,

Ken

Ken McCroskey  
Vice Chair, Transportation Commission



**From:** [REDACTED]  
**To:** TRAFFIC & SAFETY COMMISSION; [REDACTED]  
**Subject:** expressing support for using sugar tax revenue to pay for crossing guards  
**Date:** Wednesday, February 26, 2020 10:18:17 AM

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[EXTERNAL EMAIL.]

Hello Traffic & Safety Commissioners,

Hope you are well. I am writing to you today to express my support to use revenue from the sugar tax to pay for crossing guards. The crossing guards play a crucial role in keeping our children safe. Many times I've seen drivers behave differently (better, that is) when there is a crossing guard posted near the schools. On days when there isn't a crossing guard, I've seen drivers speed up to enter the intersection at a yellow light or make a right turn on red. There are many children walking, biking, and scooting to school, which is great for their overall health and it's important that they do so in a safe manner where crossing guards are present to assist them in crossing the streets. Please let me know if you have any questions.

Thanks,  
Michele

**From:** [REDACTED]  
**To:** [TRAFFIC & SAFETY COMMISSION](#)  
**Subject:** Sugar-Sweetened Beverage Tax discussion at tonight's meeting  
**Date:** Thursday, February 27, 2020 1:55:17 PM

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[EXTERNAL EMAIL.]

Dear Members of the Traffic and Safety Commission,

I am writing to you regarding the following item on tonight's agenda:

5-4. Expenditure of Sugar-Sweetened Beverage Tax

Revenue generated from the sugar-sweetened beverage tax approved by voters in November 2016 is used to fund health-related programs, events, and activities in the City. The ordinance requires the Traffic and Safety Commission along with three other advisory bodies to provide recommendations for how to spend the revenue generated by the tax. Recommendation: That the Commission discuss ideas for how to spend revenue from the sugar-sweetened beverage tax proceeds for Fiscal Year 2021 and provide a recommendation to City Council for consideration at their special study session.

Last year the Traffic and Safety Commission recommended to the Albany City Council that the crossing guard program be the first priority for use of this tax revenue. As an Albany resident with a school aged child, I am writing to you to urge that you recommend to the City that this funding continue. While we walk to school crossing small intersections and don't partake of the crossing guard services, I can easily see how vital they are to the health and safety of our young citizens at these dangerously busy intersections. I also don't see any other possibility of funding of these services from any other source and fear that they would be cut if not funded by the Sugar-Sweetened Beverage Tax.

Having a safe route to school enabled by our great crossing guards promotes health and wellness is exactly the thing that funds from the Sugar-Sweetened Beverage Tax is designed to promote. I voted to approve this tax on the 2016 ballot and I think supporting the crossing guard program should be the highest priority for funding with the revenue. I've partaken of some of the other benefits of this tax (water filling stations, City of Albany cooking classes), and while those have been a nice quality of life improvement, crossing guards are critical to citizen health and safety.

Thanks for your consideration of this important issue!

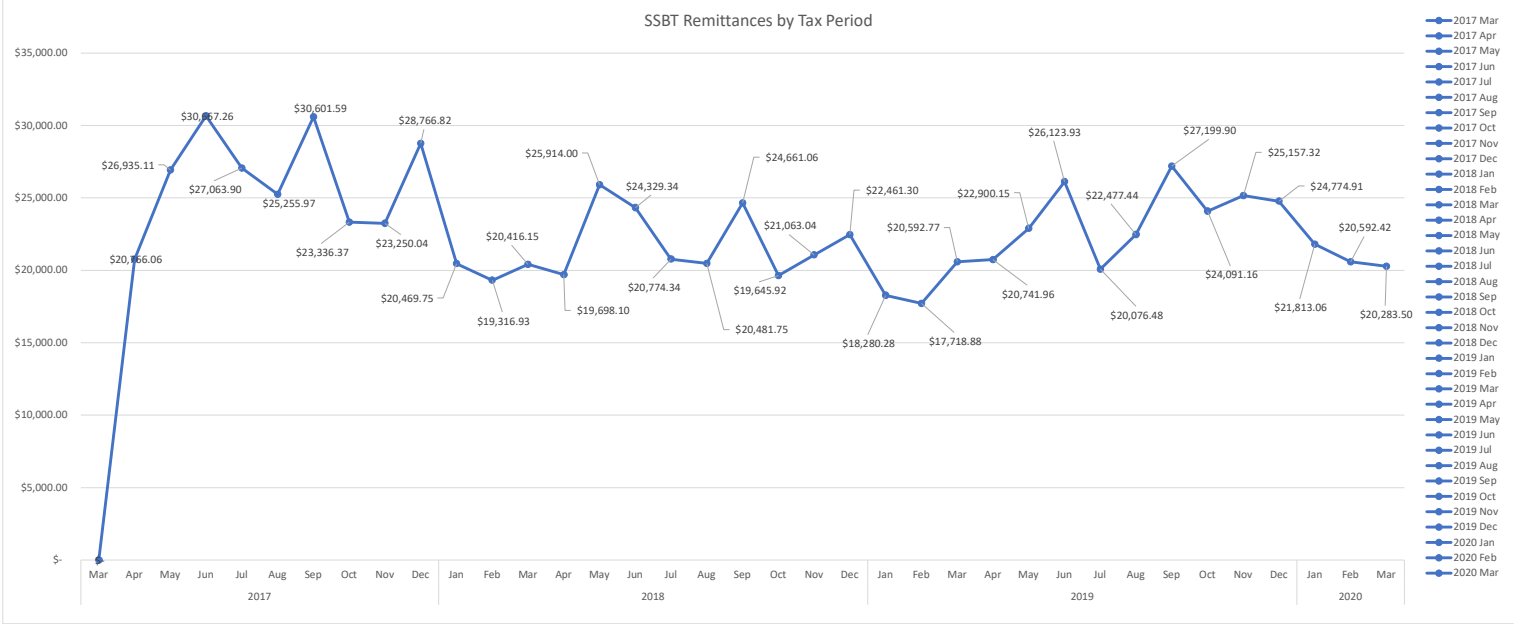
Kind regards,  
Stephanie Best  
Albany citizen and Marin Elementary parent

**Sugar Sweetened Beverage Tax Program Suggestions**  
**Council Study Session – Monday, May 18, 2020**

<b>Programs</b>	<b>PROSC</b>	<b>SEJC</b>	<b>TC</b>	<b>Community</b>	<b>Estimated Cost</b>	<b>Additional Information</b>
Crossing Guard Program					\$140,000	SSB Funded in FY2020. Contract with ACMS. Staff intends to continue contract in FY2021
Bike Safety Program					\$15,000	SSB Funded in FY2020. Contract with Cycle of Change. If funded in FY2021, program locations would include AMS, Ocean View (at the high school), and Marin. Program could resume in person when permitted or provided virtually.
Healthy Me Music & Movement program					\$12,500	SSB Funded in FY2020. Contract with Healthy Me Kids. Program in AUSD preschools, transition kindergartens & kindergartens. If funded in FY2021, in person classes would resume when permissible.
Support for programs/activities/signage to activate the Bulb					\$10,000	New recommendation
Relief of food insecurity experienced by seniors, children & families					\$60,000	New recommendation
Promote planting of subsidized/free trees					\$40,000	New recommendation
Curb extension (bulb-out) at the southeast corner of Talbot Ave and Marin Ave					\$50,000	New recommendation
Rectangular rapid flashing beacon installation at a crossing of Marin Avenue east of Peralta					\$20,000	New recommendation
Additional bicycle parking at Albany High School					\$5,000-\$10,000	New recommendation

**City of Albany**  
**Sugar-Sweetened Beverage Tax by Tax Period**  
 Report Prepared 5/8/2020

Tax Period	Total Ready to Disburse
April	\$ 20,766.06
May	\$ 26,935.11
Jun	\$ 30,667.26
Jul	\$ 27,063.90
Aug	\$ 25,255.97
Sep	\$ 30,601.59
Oct	\$ 23,336.37
Nov	\$ 23,250.04
Dec	\$ 28,766.82
<b>2017</b>	<b>\$ 236,643.12</b>
Jan	\$ 20,469.75
Feb	\$ 19,316.93
Mar	\$ 20,416.15
Apr	\$ 19,698.10
May	\$ 25,914.00
Jun	\$ 24,329.34
Jul	\$ 20,774.34
Aug	\$ 20,481.75
Sep	\$ 24,661.06
Oct	\$ 19,645.92
Nov	\$ 21,063.04
Dec	\$ 22,461.30
<b>2018 Total</b>	<b>\$ 259,231.68</b>
Jan	\$ 18,280.28
Feb	\$ 17,718.88
Mar	\$ 20,592.77
Apr	\$ 20,741.96
May	\$ 22,900.15
Jun	\$ 26,123.93
Jul	\$ 20,076.48
Aug	\$ 22,477.44
Sep	\$ 27,199.90
Oct	\$ 24,091.16
Nov	\$ 25,157.32
Dec	\$ 24,774.91
<b>2019 Total</b>	<b>\$ 270,135.18</b>
Jan	\$ 21,813.06
Feb	\$ 20,592.42
Mar	\$ 20,283.50
<b>2020 Total</b>	<b>\$ 62,688.98</b>
<b>Grand Total</b>	<b>\$ 828,698.96</b>





1           **WHEREAS**, childhood obesity has more than doubled in children and tripled in  
2 adolescents in the past 30 years; in 2010, more than one-third of children and adolescents were  
3 overweight or obese; and

4           **WHEREAS**, there are also economic costs. In 2006, for instance, overweight and  
5 obesity-related costs in California were estimated at almost \$21 billion; and

6  
7           **WHEREAS**, tooth decay, while not as life threatening as diabetes or obesity, still has a  
8 meaningful impact, especially on children. In fact, tooth decay is the most common childhood  
9 disease, experienced by over 70% of California's 3rd graders. Children who frequently or  
10 excessively consume beverages high in sugar are at increased risk for dental cavities. Dental  
11 problems are a major cause of missed school days and poor school performance as well as pain,  
infection, and tooth loss in California; and

12           **WHEREAS**, based on the findings set forth above, the purpose of this Ordinance is to  
13 diminish the human and economic costs of diseases associated with the consumption of sugary  
14 drinks by discouraging their distribution and consumption in Albany through a tax. Specifically,  
the purpose of this ordinance is to tax the distribution of sugary drinks and the products used to  
15 make them; and

16           **WHEREAS**, this Ordinance is not intended for the purpose of regulation; and

17           **WHEREAS**, this Ordinance does not authorize the conduct of any business or activity in  
18 the city, but merely provides for the taxation of distribution of specified products as it occurs;  
and

19  
20           **WHEREAS**, this Ordinance imposes a general tax on the distribution of sugar-sweetened  
21 beverages such as high-calorie, low-nutrition products, like soda, energy drinks, and heavily  
22 presweetened tea, as well as the added caloric sweeteners used to produce these sugar-sweetened  
beverages, such as the premade syrup used to make fountain drinks. Certain drinks containing  
23 sugar are exempted, including infant formula, milk products, and natural fruit and vegetable  
juice; and

24           **WHEREAS**, this Ordinance provides for a small business exemption for Retailers who  
25 transport sugar-sweetened beverage products into the City themselves and then sell those  
products directly to consumers; and

26  
27           **WHEREAS**, this general tax will provide revenue to be available for the general  
governmental needs of the people of Albany.

28

1           **NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN**  
2 **AS FOLLOWS:**

3  
4 Section 1. Article 4-13 is hereby added to Chapter XIII of the Albany Municipal Code, to read  
5 as follows:

6 **4-13 SUGAR-SWEETENED BEVERAGE PRODUCT DISTRIBUTION TAX**

7  
8 **4-13.1 Excise tax.**

9 a. In addition to any other taxes imposed by the City, the City hereby levies a tax of one cent  
10 (\$0.01) per fluid ounce on the privilege of Distributing Sugar-sweetened beverage products in  
11 the City.

12 b. For the purposes of this Chapter, the volume, in ounces, of a Sugar-sweetened beverage  
13 product shall be calculated as follows:

14           1. For a Sugar-sweetened beverage, the volume, in fluid ounces, of Sugar-  
15 sweetened beverages distributed to any person in the course of business in the City.

16           2. For Added caloric sweeteners, the largest volume, in fluid ounces, of Sugar-  
17 sweetened beverages that could be produced from the Added caloric sweeteners. In  
18 accordance with rules and regulations promulgated by the City pursuant to Section  
19 4-13.5, the largest volume, in fluid ounces, that would typically be produced from  
20 the Added caloric sweeteners shall be determined based on the manufacturer's  
21 instructions or, if the Distributor uses the Added caloric sweeteners to produce a  
22 Sugar-sweetened beverage, the regular practice of the Distributor.

23 c. The tax shall be paid upon the first nonexempt Distribution of a Sugar-sweetened beverage  
24 product in the City. To the extent that there is a chain of Distribution within Albany involving  
25 more than one Distributor, the tax shall be levied on the first Distributor subject to the  
26 jurisdiction of the City. To the extent the tax is not paid as set forth above for any reason, it shall  
27 be payable on subsequent Distributions and by subsequent Distributors; provided, that the  
28 Distribution of Sugar-sweetened beverage products may not be taxed more than once in the chain  
of commerce.

1 **4-13.2 Exemptions.**

2 The tax imposed by this Chapter shall not apply:

- 3
- 4 a. To any Distributor that is not subject to taxation by the City under the laws of the United
- 5 States or the State of California;
- 6
- 7 b. To any Distribution of a Sugar-sweetened beverage product to a Retailer with less than
- 8 \$100,000 in annual gross receipts, as defined in Section 4-13.4, in the most recent year;
- 9
- 10 c. To any Distribution of Natural or common sweeteners; or
- 11
- 12 d. To any Distribution of Added caloric sweeteners to a Food and Beverage Sales Retail Store,
- 13 as defined in Albany Municipal Code Section 20.16.030DD, if the Food and Beverage Sales
- 14 Retail Store then offers the Added caloric sweetener for sale for later use by customers of that
- 15 store.

16

17 The City Council, without a vote of the people, may, either permanently or temporarily, increase

18 the dollar amount of the threshold for the small-business exemption in Subsection b.

19 **4-13.3 Definitions.**

20 a. "Added caloric sweetener" means any substance or combination of substances that meets all

21 of the following four criteria:

- 22
- 23 1. Is suitable for human consumption;
- 24
- 25 2. Adds calories to the diet if consumed;
- 26
- 27 3. Is perceived as sweet when consumed; and
- 28
- 29 4. Is used for making, mixing, or compounding Sugar-sweetened beverages by
- 30 combining the substance or substances with one or more other ingredients
- 31 including, without limitation, water, ice, powder, coffee, tea, fruit juice, vegetable
- 32 juice, or carbonation or other gas.

33 An Added caloric sweetener may take any form, including but not limited to a liquid, syrup, and

34 powder, whether or not frozen. "Added caloric sweetener" includes, without limitation, sucrose,

35



1 fructose, glucose, other sugars, and high fructose corn syrup, but does not include a substance  
2 that exclusively contains natural, concentrated, or reconstituted fruit or vegetable juice or any  
3 combination thereof.

4  
5 b. "Alcoholic beverage" means any beverage subject to tax under Part 14 (commencing with  
6 Section 32001) of the California Revenue and Taxation Code, as that Part may be amended from  
7 time to time.

8 c. "Beverage for medical use" means a beverage suitable for human consumption and  
9 manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize  
10 dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for  
11 infants and children formulated to prevent or treat dehydration due to illness. "Beverage for  
12 medical use" shall also mean a "medical food" as defined in Section 109971 of the California  
13 Health and Safety Code, as that definition may be amended from time to time. "Beverage for  
14 medical use" shall not include drinks commonly referred to as "sports drinks" or any other  
15 common names that are derivations thereof.

16 d. "Business Entity" means any Person except for a natural person.

17 e. "City" means the City of Albany, California.

18 f. "City Manager" means the City Manager of the City of Albany or his or her designee.

19 g. "Consumer" means a natural person who purchases a Sugar-sweetened beverage product in  
20 the City for a purpose other than resale in the ordinary course of business.

21 h. "Distribution" or "Distribute" means the transfer of title or possession (1) from one Business  
22 entity to another for consideration or (2) within a single Business entity, such as by a wholesale  
23 or warehousing unit to a retail outlet or between two or more employees or contractors.

"Distribution" or "Distribute" shall not mean the retail sale to a Consumer.

24  
25 i. "Distributor" means any Person who Distributes Sugar-sweetened beverage products in the  
26 City.

27 j. "Gross receipts" is defined in Section 4-13.4.  
28

1 k. "Milk" means natural liquid milk, regardless of animal source or butterfat content, natural  
2 milk concentrate, whether or not reconstituted, regardless of animal source or butterfat content,  
3 or dehydrated natural milk, whether or not reconstituted and regardless of animal source or  
4 butterfat content, and plant-based milk substitutes, that are marketed as milk, such as soy milk  
5 and almond milk.

6  
7 l. "Natural or common sweetener" means granulated white sugar, brown sugar, honey,  
8 molasses, xylem sap of maple trees, or agave nectar.

9 m. "Person" means an individual, trust, firm, joint stock company, business concern, business  
10 trust, government, receiver, trustee, syndicate, social club, fraternal organization, estate,  
11 corporation, including, but not limited to, a limited liability company, and association or any  
12 other group or combination acting as a unit.

13 n. "Retailer" means any Person who serves Sugar-sweetened beverage products to a Consumer.

14 o. "Simple syrup" means a mixture of water and one or more Natural or common sweeteners  
15 without any additional ingredients.

16 p. "Sugar-sweetened beverage" means any beverage intended for human consumption to which  
17 one or more Added caloric sweeteners has been added and that contains at least 2 calories per  
18 fluid ounce.

19 1. "Sugar-sweetened beverage" includes, but is not limited to all drinks and  
20 beverages commonly referred to as "soda," "pop," "cola," "soft drinks," "sports  
21 drinks," "energy drinks," "sweetened ice teas," or any other common names that are  
22 derivations thereof.

23 2. "Sugar-sweetened beverage" shall not include any of the following:

24 a. Any beverage in which milk is the primary ingredient, i.e., the ingredient  
25 constituting a greater volume of the product than any other;

26 b. Any beverage for medical use;

27 c. Any liquid sold for use for weight reduction as a meal replacement;

28

1 d. Any product commonly referred to as "infant formula" or "baby formula";  
2 or

3  
4 e. Any alcoholic beverage.

5 q. "Sugar-sweetened beverage product" means a Sugar-sweetened beverage or Added caloric  
6 sweetener.  
7

8 **4-13.4 Definition of Gross Receipts.**

9 "Gross receipts" means the gross receipts of the preceding fiscal year of the Distributor or part  
10 thereof, and is defined as follows: the total amount actually received or receivable from all sales;  
11 the total amount of compensation actually received or receivable for the performance of any act  
12 or service, of whatever nature it may be, for which a charge is made or credit allowed, whether  
13 or not such act or service is done as a part of or in connection with the sale of materials, goods,  
14 wares or merchandise; and gains realized from trading in stocks or bonds; interest discounts,  
15 rents, royalties, fees, commissions, dividends or other emoluments, however designated.

16 Included in "gross receipts" are all receipts, cash, credits and property of any kind or nature,  
17 without any deduction therefrom on account of the cost of the property sold, the cost of materials  
18 used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever,  
19 except that the following are excluded therefrom:

20 a. Cash discounts allowed and taken on sales;

21 b. Credit allowed on property accepted as part of the purchase price and which property may  
22 later be sold, at which time the sales price shall be included as "gross receipts";

23 c. Any tax required by law to be included in or added to the purchase price and collected from  
24 the consumer or purchaser;

25 c. Such part of the sale price of property returned by purchasers upon rescission of a contract of  
26 sale as is refunded either in cash or by credit;

27 e. Receipts of refundable deposits, except that such deposits when forfeited and taken into  
28 income of the business shall not be excluded when in excess of one dollar;

1 f. Amounts collected for others where the business is acting as an agent or trustee and to the  
2 extent that such amounts are paid to those for whom collected. These agents or trustees must  
3 provide the Finance Department with the names and the addresses of the others and the amounts  
4 paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained  
5 by the agent or trustees;

6  
7 g. Cash value of sales, trades or transactions between departments or units of the same  
8 business;

9 h. Transaction between a partnership and its partners;

10  
11 i. Receipts from services or sales in transactions between affiliated corporations. An "affiliated  
12 corporation" is a corporation:

- 13 1. The voting and nonvoting stock of which is owned at least eighty percent by such  
14 other corporation with which such transaction is had,
- 15 2. Which owns at least eighty percent of the voting and nonvoting stock of such other  
16 corporation, or
- 17 3. At least eighty percent of the voting and nonvoting stock of which is owned by a  
18 common parent corporation which also has such ownership of the corporation with which  
19 such transaction is had;

20 j. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures,  
21 machinery or other equipment used by the licensee in the regular course of the licensee's  
22 business.

23 **4-13.5 Duties, responsibilities and authority of the City Manager.**

24 a. It shall be the duty of the City Manager to collect and receive all taxes imposed by this  
25 Chapter, and to keep an accurate record thereof.

26 b. The City Manager is hereby charged with the enforcement of this Chapter, except as  
27 otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating  
28 to the administration and enforcement of this Chapter, including provisions for the reexamination

1 and correction of returns and payments, and for reporting. Such rules and regulations may  
2 include, but are not limited to, the following:

- 3  
4 1. The determination of the frequency with which a Distributor must calculate the  
5 tax. This determination shall not constitute an increase of the tax.
- 6  
7 2. The determination of the frequency with which a Distributor must pay the tax.  
8 This determination shall not constitute an increase of the tax.
- 9  
10 3. The determination of whether and how a Distributor must register with the  
11 City.
- 12  
13 4. The determination of whether and how a Distributor who receives, in the City,  
14 Sugar-sweetened beverage products from another Distributor must report to the  
15 City the name of that Distributor.
- 16  
17 5. The determination of whether and how a Distributor who receives, in the City,  
18 Sugar-sweetened beverage products from another distributor must report to the City  
19 the volume of Sugar-sweetened beverage products received from that Distributor.
- 20  
21 6. The determination of what other documentation is required to be created or  
22 maintained by a Distributor.

23 c. The City Manager shall annually verify that the taxes owed under this Chapter have been  
24 properly applied, exempted, collected, and remitted.

#### 25 **4-13.6 Collection.**

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

b. In order to aid in the City's collection of taxes due under this Chapter, any Retailer that  
receives Sugar-sweetened beverage products from a Distributor shall, in accordance with rules  
and regulations promulgated by the City Manager pursuant to Section 4-13.5, either:

1           1. report to the City all such transactions, the volume in ounces of Sugar-  
2           sweetened beverage products received in each transaction, and the identity and  
3           contact information of the Distributor from whom the Sugar-sweetened beverage  
4           products were received; or

5           2. collect the tax that would be payable as a result of the transaction by the  
6           Distributor from whom the Sugar-sweetened beverage product was received and  
7           remit it to the City; or

8           3. provide to the City evidence that the Distributor from whom the Sugar-  
9           sweetened beverage products were received has registered as a Distributor with the  
10          City and that registration is current.

11  
12 c. The City Council is authorized to have the taxes imposed by this Chapter collected by the  
13 County of Alameda or the California Board of Equalization in conjunction with the collection of  
14 other taxes for the City. If the City Council exercises this authorization, the duties and  
15 responsibilities of the City Manager shall be given, as appropriate, to the County of Alameda or  
16 the California Board of Equalization, which may delegate such duties and responsibilities as  
17 necessary and as authorized by law.

18 **4-13.7 Refunds.**

19 Whenever any tax under this Chapter has been overpaid or has been erroneously or illegally  
20 collected or received by the City, it may be refunded only as provided Albany Municipal Code  
21 Section 2-28.1, as that Section now reads or may hereafter be amended by ordinance adopted by  
22 the City Council. A vote of the people shall not be required to amend the City's claim  
23 procedures. Compliance with the City's claim procedures shall be a prerequisite to any suit or  
24 other legal proceeding seeking a refund or any payment of money or damages.

24 **4-13.8 Enforcement.**

25 Except as otherwise provided by this Chapter or by rule or regulation promulgated by the City  
26 Manager, the tax imposed by this Chapter shall be administered in the same manner as taxes  
27 imposed pursuant to Albany Municipal Code Chapter 5-2 and, without limitation, shall be  
28 subject to the same delinquency penalties, appeals processes and other enforcement provisions  
set forth in Albany Municipal Code Chapter 5-2.

1 **4-13.9 Not a sales and use tax.**

2 The tax imposed by this Chapter is a tax upon the privilege of conducting business, specifically,  
3 Distributing Sugar sweetened beverage products within the City of Albany. It is not a sales, use,  
4 or other excise tax on the sale, consumption or use of Sugar-sweetened beverage products.  
5

6 **4-13.10 Annual Study Session for Public Input on Tax Expenditures.**

7 The City Council shall conduct an annual special study session, in conjunction with the City's  
8 budget process, for the purpose of receiving input and recommendations regarding the  
9 expenditure of proceeds from the tax created by this Chapter. Prior to the special study session,  
10 the City Council shall solicit recommendations from the City's Parks and Recreation  
11 Commission, Social and Economic Justice Commission, and Traffic and Safety Commission, as  
12 well as a designated representative of the Albany Unified School District, regarding the use of  
13 tax proceeds. Additionally, the City shall solicit recommendations from individuals with  
14 specialized expertise in areas such as public health issues and programs relating to diabetes,  
15 obesity and sugary drink consumption; and any other individuals or organizations as deemed  
16 appropriate by the City Council.

17 **4-13.11 Annual Audit.**

18 By no later than December 31<sup>st</sup> of each year after the operative date, the City's independent  
19 auditors shall complete a report reviewing the collection, management and expenditure of  
20 revenue from the tax levied by this Article.

21 Section 2. The People of the City of Albany find that all Recitals contained in this Ordinance  
22 are true and correct and are incorporated herein by reference.

23 Section 3. Pursuant to California Constitution article XIIB, the appropriation limit for the  
24 City of Albany is hereby increased by the aggregate sum authorized to be levied by this general  
25 tax for fiscal year 2016-17 and each fiscal year thereafter.

26 Section 4. If any provision of this Ordinance or the application thereof to any person or  
27 circumstance is held invalid, the remainder of the Ordinance and the application of such  
28 provision to other persons or circumstances shall not be affected thereby.

1 Section 5. This Ordinance relates to the levying and collection of the City Sugar-sweetened  
2 Beverage Product Distribution Tax and shall take effect immediately.

3  
4 Ordinance No. 2016-02 was submitted to the People of the City of Albany at the November 8,  
5 2016 general municipal election. It was approved by the following vote of the People:

6 YES: 6,282

7  
8 NO: 2,485

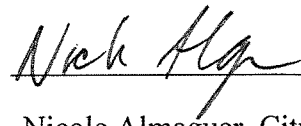
9  
10  
11 Ordinance No. 2016-02 was thereby adopted by the voters at the November 8, 2012 election  
12 and took effect upon adoption of a resolution declaring the results of the election at a regular  
13 meeting of the City Council held on December 5, 2016 by the following vote:

14 AYES: Council Members Barnes, Nason, Pilch, Vice Mayor McQuaid, Mayor Maass

15 NOES: None

16 ABSENT: None

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

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22 Nicole Almaguer, City Clerk  
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