

RESOLUTION NO. 2020-69

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A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING FOR THE PLACEMENT OF TWO GENERAL TAX MEASURES ON THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION BALLOT FOR SUBMITTING TO THE VOTERS AN ORDINANCE AMENDING SECTION 4-5, CHAPTER IV OF THE ALBANY MUNICIPAL CODE INCREASING THE RATE OF THE REAL PROPERTY TRANSFER TAX; AND AN ORDINANCE AMENDING SECTION 4-11, CHAPTER IV OF THE ALBANY MUNICIPAL CODE INCREASING THE MAXIMUM RATE OF THE UTILITY USERS' TAX ON GAS AND ELECTRIC SERVICE AND EXTENDING SAID TAX TO WATER SERVICE; AND AUTHORIZING THE CITY CLERK OR HER DULY AUTHORIZED OFFICERS TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION

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 to be held in said City on Tuesday, November 3, 2020; 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

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

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has the authority and desires to submit two ballot measures to the voters of the City of Albany for their approval and adoption at the General Municipal Election to be held in the City on November 3, 2020; and

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WHEREAS, the two ballot measures are as follows:

(A) An ordinance amending Section 4-5 of Chapter IV of the Albany Municipal Code to increase the rate of the real property transfer tax (“Transfer Tax”) from 1.15% to 1.5% of real estate value transferred; revenue from this tax funding general municipal purposes; and

(B) An ordinance amending Section 4-11 of Chapter IV of the Albany Municipal Code to (i) increase the maximum rate of the utility users’ tax (“UUT”) for gas and electric service - from 7% to 9.5%; and (ii) apply a 7.5% utility users’ tax on water service; revenue from this tax funding general municipal purposes; and

WHEREAS, the specific terms of the Transfer Tax measure are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” (the “Transfer Tax Ordinance” or “Transfer Tax Measure”) and by this reference made an operative part hereof, and in accordance with all applicable laws; and

WHEREAS, the specific terms of the UUT measure are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit “B” (the “UUT Ordinance” or “UUT Measure”) and by this reference made an operative part hereof, and in accordance with all applicable laws; and

WHEREAS, the UUT measure is drafted to give the Council the flexibility to adjust UUT rates upwardly or downwardly from time to time, provided the adjustment does not exceed the voter-approved maximum rates contained in the UUT Measure in order to adapt to future circumstances; and

1 **WHEREAS**, both the Transfer Tax and the UUT are general taxes, the proceeds of
2 which are deposited into the City’s general fund and which pay for important general
3 municipal services to the public; and

4 **WHEREAS**, on November 6, 1996, the voters of the State of California approved
5 Proposition 218 (California Constitution, Article XIIC), an amendment to the State
6 Constitution which requires that all general taxes which are imposed, extended or increased
7 must be submitted to the electorate and approved by a majority vote of the qualified electors
8 voting in the election; and

9 **WHEREAS**, the proposed amendments which increase the rate of the Transfer Tax
10 and the UUT constitute tax “increases” subject to Proposition 218; and

11 **WHEREAS**, pursuant to Proposition 218 (California Constitution Article XIIC,
12 §2(b)), the general rule is that any local election for the approval of an increase to a general
13 tax must be consolidated with a regularly scheduled general election for members of the
14 governing body of the local government; and

15 **WHEREAS**, the next regularly scheduled general election at which City Council
16 members are to be elected is November 3, 2020; and

17 **WHEREAS**, pursuant to Albany City Charter Section 2.05, “[T]he affirmative vote
18 of a majority of the Council shall be necessary to adopt any ordinances, resolutions or claims
19 against the City, which vote shall be taken by ayes and noes and entered upon the record”.

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

22 **Section 1** Recitals. The City Council hereby finds and determines that the
23 foregoing recitals are true and correct, are incorporated herein and by this reference made an
24 operative part hereof.
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1 **Section 2** Submission of Two Ballot Measures. Pursuant to Albany City Charter
2 Section 2.05, California Elections Code §9222, and any other applicable requirements of the
3 laws of the State of California relating to the City of Albany, the City Council, by a simple
4 majority vote of its members, hereby orders the Transfer Tax and UUT Measures to be
5 submitted to the voters of the City at the General Municipal Election to be held on Tuesday,
6 November 3, 2020.

7 **Section 3** There is hereby called and ordered to be held in the City of Albany,
8 California on November 3, 2020, a General Municipal Election for the purposes of submitting
9 to the voters the Transfer Tax and UUT Measures as set forth in Exhibits A and B.

10 **Section 4** The City Council hereby orders that the ballot questions for the
11 Measures shall be presented and printed upon the ballot submitted to the qualified voters in
12 the manner and form set forth in this Section 4. On the ballot to be submitted to the qualified
13 voters at the General Municipal Election to be held on November 3, 2020, in addition to any
14 other matters required by law, there shall be printed substantially the following ballot
15 questions:
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17
18 (A) For the Transfer Tax Measure:
19

"To support City of Albany general services, with funding that cannot be taken by Sacramento, including: emergency response services, environmental programs, community services and local business programs, shall a measure increasing the City's real property transfer tax rate from \$11.50 to \$15.00 per \$1,000 purchased, providing an additional \$392,000 annually, until ended by voters, with all funds remaining local be adopted?"	YES
	NO

1 (B) For the UUT Measure:

"To support City of Albany general services including: disaster and emergency preparedness, reducing greenhouse gas emissions, emergency response and environmental sustainability, shall a measure increasing the City's utility users' tax from 7% to 9.5% for gas and electric service, and applying the tax to water service at 7.5%, providing an additional \$675,000 annually until ended by voters, exempting self-generated energy, exempting low-income households, requiring independent audits, with all funds remaining local be adopted?"	YES
	NO

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8 **Section 5** Both Measures require the approval of a simple majority of the
9 qualified electors casting votes at the General Municipal Election.

10 **Section 6** Conduct of Election. The City Clerk is authorized, instructed, and
11 directed to coordinate with the Alameda County Registrar of Voters/Elections Official to
12 procure and furnish any and all official ballots, printed matter and all supplies, equipment
13 and paraphernalia that may be necessary in order to properly and lawfully conduct the
14 election.

15
16 **Section 7** Impartial Analysis. Pursuant to California Elections Code Section
17 9280, the City Council hereby directs the City Clerk to transmit a copy of both Measures to
18 the City Attorney. The City Attorney shall prepare an impartial analysis of the Measures,
19 not to exceed 500 words in length, showing the effect of the Measures on the existing law
20 and the operation of the Measures, and transmit such impartial analysis to the City Clerk not
21 later than the deadline set by the County of Alameda. The impartial analysis shall include a
22 statement indicating whether the Measures were placed on the ballot by a petition signed by
23 the requisite number of voters or by the City Council. In the event the entire text of the
24 Measures is not printed on the ballot, nor in the voter information portion of the sample
25 ballot, there shall be printed immediately below the impartial analysis, in no less than 10-
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1 font bold type, the following: “**The above statement is an impartial analysis of Ordinance**
2 **or Measure ____**. **If you desire a copy of the Ordinance or Measure, please call the**
3 **Office of the City Clerk at 510-528-5710 and a copy will be mailed at no cost to you.**”
4

5 **Section 8** The City Clerk is hereby directed to cause notice of the Measures to
6 be published in a newspaper of general circulation, or any other newspaper designated as an
7 official newspaper of the City of Albany in accordance with Elections Code §12111 and
8 Government Code §6061.

9 **Section 9** Placement on the Ballot. The full text of the Measures shall be
10 printed in the voter information guide, and a statement shall be printed in the ballot pursuant
11 to Elections Code §9223 advising voters that they may obtain a copy of this Resolution and
12 the Measure, at no cost, upon request made to the City Clerk.
13

14 **Section 10** Public Examination. Pursuant to California Elections Code §9295,
15 the Measures will be available for public examination for no fewer than ten (10) calendar
16 days prior to being submitted for printing in the voter information guide. The City Clerk
17 shall post notice in the Clerk’s office of the specific dates that the examination period will
18 run.
19

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

23 **Section 12** That the General Municipal Election, to be held in the City of Albany,
24 shall be canvassed by the Registrar of Voters of the County of Alameda, State of California.
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1 **Section 13** That the City Clerk of the City of Albany is hereby authorized,
2 instructed and directed to provide the Alameda County Registrar of Voters with all pertinent
3 information and material as required.

4 **Section 14** That the City Clerk of the City of Albany is hereby authorized and
5 directed to file a copy of this Resolution immediately upon its adoption with the appropriate
6 County agencies. With the concurrence of the City Attorney, the City Clerk is hereby
7 authorized to make such minor, technical and clarifying changes to this Resolution and/or the
8 Exhibits hereto as may be deemed necessary and appropriate.

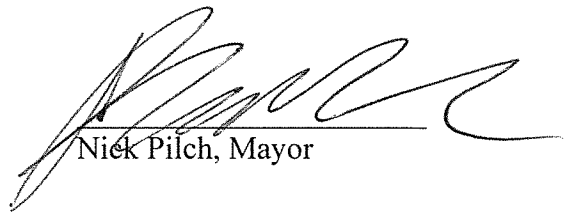
9 **Section 15** The City Council of the City of Albany shall meet at its usual place of
10 meeting and review the certified statement of results of the election after the County Registrar
11 of Voters/Elections Official has provided said statement to the City Clerk and shall thereafter
12 declare the results at the next scheduled meeting.

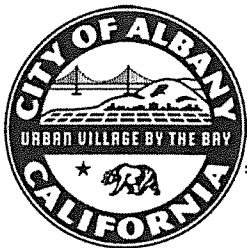
13 **Section 16** The Voter Information Guide shall include the ballot questions'
14 wording to the voters as set forth above, and the exact wording of the proposed Albany
15 Municipal Code sections or present Albany Municipal Code with language to be deleted
16 shown in ~~strikeout~~ type and the language to be added to be shown in underlined, *italicized*,
17 or otherwise **highlighted** in the Exhibits "A" and "B" attached hereto.

18 **Section 17** The approval of this Resolution is exempt from the California
19 Environmental Quality Act (CEQA). The Transfer Tax Measure and the UUT Measure to be
20 submitted to the voters are general taxes that can be used for any legitimate governmental
21 purpose; it is not a commitment to any particular action or actions. As such, under CEQA
22 Guidelines Section 15378(b)(4), neither Measure is a project within the meaning of CEQA
23 because they create government funding mechanism that do not involve any commitment to
24 any specific project that may result in a potentially significant physical impact on the
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1 environment. If revenue from either Measure were used for a purpose that would have any
2 such effect, the City would undertake the required CEQA review for that particular project at
3 the earliest feasible time prior to approval of the project. Therefore, under CEQA Guidelines
4 Section 15060, review under CEQA is not required prior to enactment of the Measures.

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6 The undersigned hereby certifies that the foregoing is a full, true, and complete copy
7 of the Resolution duly passed and adopted by the City Council of the City of Albany at a
8 regular meeting thereof on the 6th day of July, 2020.

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12 Nick Pilch, Mayor
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City of Albany

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

RESOLUTION NO. 2020-69

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF

ALBANY, The 6th day of July, 2020, by the following votes:

AYES: Council Members Maass, McQuaid, and Mayor Pilch

NOES: Council Members Barnes and Nason

ABSENT: none

ABSTAINED: none

RECUSED: none

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

7th day of July, 2020.

Anne Hsu
CITY CLERK

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EXHIBIT "A"

**AN ORDINANCE AMENDING SECTION 4-5, CHAPTER IV OF THE
CITY OF ALBANY MUNICIPAL CODE TO INCREASE THE RATE OF
THE GENERAL REAL PROPERTY TRANSFER TAX FROM 1.15% TO 1.5%
OF THE REAL ESTATE VALUE TRANSFERRED**

"To support City of Albany general services, with funding that cannot be taken by Sacramento, including: emergency response services, environmental programs, community services and local business programs, shall a measure increasing the City's real property transfer tax rate from \$11.50 to \$15.00 per \$1,000 purchased, providing an additional \$392,000 annually, until ended by voters, with all funds remaining local be adopted?"	YES
	NO

ORDINANCE NO. 2020-09

**AN ORDINANCE AMENDING SECTION 4-5, CHAPTER IV OF THE
CITY OF ALBANY MUNICIPAL CODE TO INCREASE THE RATE OF
THE GENERAL REAL PROPERTY TRANSFER TAX FROM 1.15% TO 1.5%
OF THE REAL ESTATE VALUE TRANSFERRED**

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

SECTION 1: AUTHORITY.

This Ordinance is enacted in accordance with the authority granted to cities by Article XI, Section 7, and Article XIIC, Section 2 of the California Constitution and the California Elections Code.

1 **SECTION 2: AMENDMENT TO SUBSECTION 4-5.2 OF THE MUNICIPAL CODE.**

2 Chapter IV, Section 4-5, Subsection 4-5.2 of the City of Albany Municipal Code is

3 hereby amended to read:

4
5 **“4-5.2 Imposition of Tax -- Except as Otherwise Exempted.**

6 There is hereby imposed a tax levied at the rate of one hundred ~~fifteen~~ *fifty* hundredths
7 (~~115~~*150*/100) of one (1%) percent of the value of consideration, effective January 1,
8 ~~2003~~*2021* on the following:

9
10 a. All transfers by deeds, instruments, writings, or any other document by which any
11 lands, tenements, or other interest in real property are sold, assigned, conveyed, transferred,
12 exchanged or title otherwise changed within the City of Albany; or

13
14 b. Any transaction or change in title whereby the form of title to real property is granted,
15 assigned, changed, transferred or otherwise conveyed to or vested in a person(s), purchaser(s),
16 or transferee(s) in a different percentage of ownership on title that had been set forth on the
17 prior deed or document evidencing title.

18
19 c. Any transaction or transfer of greater than five (5%) percent interest, ownership, or
20 control of stock or shares in a corporation, interest in partnerships, or interest in other legal
21 entities that is transferred or conveyed through the purchase or transfer of corporate stock,
22 partnerships interest, shares or interest in limited liability companies, or ownership interest in
23 other legal entities. Such purchase or transfer of such stock, shares, or other interest shall be
24 considered and shall constitute, for the purposes of imposing a tax, a change of ownership of
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1 property owned by the corporation, limited liability company, partnership or other legal
2 entity.”

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4 **SECTION 3: INCREASE TO APPROPRIATIONS LIMIT.**

5 Pursuant to California Constitution Article XIII B, the appropriations limit for the City of
6 Albany is hereby increased by the aggregate sum authorized to be levied by this general tax
7 for fiscal year 2020/2021 and each year thereafter.

8
9 **SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

10 The findings for this Ordinance in compliance with the California Environmental Quality
11 Act (“CEQA”) are the same as those set forth in City Council Resolution No. 2020-69 calling
12 for an election on this Ordinance. The CEQA findings set forth in Resolution No. 2020-69
13 are incorporated herein by reference.

14
15 **SECTION 5: SEVERABILITY.**

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

19
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21 **SECTION 6: EFFECTIVE DATE.**

22 Pursuant to California Constitution Article XIII C §(2)(b) and California Elections Code
23 §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters
24 of the City of Albany voting at the General Municipal Election to be held on November 3,
25 2020 and shall become effective 10 days after the City Council has declared the results of
26 the Election.
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2 Ordinance No. 2020-09 was submitted to the People of the City of Albany at the November
3 3, 2020 General Municipal Election. It was approved by the following vote of the People:

4 YES: 5512

5 NO: 4264
6
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9 Ordinance No. 2020-09 was thereby adopted by the voters at the November 3, 2020 election
10 and shall become effective ten (10) days following adoption of a resolution declaring the
11 results of the election at a meeting of the City Council held on December 14, 2020 by the
12 following vote:


13
14 AYES: Council Members Barnes, Maass, McQuaid, Nason, and Mayor Pilch

15 NOES:

16 ABSENT:

17 ABSTAIN:
18
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21 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and
22 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 AMENDING AND ADDING CERTAIN SUBSECTIONS TO SECTION 4-11, CHAPTER IV OF THE ALBANY MUNICIPAL CODE INCREASING THE MAXIMUM RATE OF THE GENERAL UTILITY USERS' TAX ON GAS AND ELECTRIC SERVICE FROM 7% TO 9.5%, AND EXTENDING THE UTILITY USERS' TAX TO WATER SERVICE AT A 7.5% RATE AND TO PROVIDE CERTAIN LOW-INCOME EXEMPTIONS FROM GAS, ELECTRIC AND WATER UTILITY USERS' TAX

"To support City of Albany general services including: disaster and emergency preparedness, reducing greenhouse gas emissions, emergency response and environmental sustainability, shall a measure increasing the City's utility users' tax from 7% to 9.5% for gas and electric service, and applying the tax to water service at 7.5%, providing an additional \$675,000 annually until ended by voters, exempting self-generated energy, exempting low-income households, requiring independent audits, with all funds remaining local be adopted?"	YES
	NO

ORDINANCE NO. 2020-10

AN ORDINANCE OF THE CITY OF ALBANY AMENDING AND ADDING CERTAIN SUBSECTIONS TO SECTION 4-11, CHAPTER IV OF THE ALBANY MUNICIPAL CODE INCREASING THE MAXIMUM RATE OF THE GENERAL UTILITY USERS' TAX ON GAS AND ELECTRIC SERVICE FROM 7% TO 9.5%, AND EXTENDING THE UTILITY USERS' TAX TO WATER SERVICE AT A 7.5% RATE AND TO PROVIDE CERTAIN LOW-INCOME EXEMPTIONS FROM GAS, ELECTRIC AND WATER UTILITY USERS' TAX

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

1 *Energy (CARE)” Program, or any successor program, whereby households meeting*
2 *certain income criteria may qualify for discounted gas and/or electric service.*

3
4 *(f) The tax imposed under subsection 4-11.27 shall not apply to any household which*
5 *qualifies for a discounted rate for water service through the CAP (Customer Assistance*
6 *Program) established by the East Bay Municipal Utilities District, whereby households*
7 *meeting certain income criteria may qualify for discounted water service.*

8
9 *(g) Alternative Utility Service Suppliers - Exemptions.*

10
11 *1. The tax imposed under subsections 4-11.5 and 4-11.7 on electric utility*
12 *service shall not apply to any household which receives electric utility service from an*
13 *alternative utility service supplier and that household qualifies for discounted electric*
14 *utility service rates under a program adopted by the alternative service supplier based upon*
15 *meeting certain income criteria.*

16
17 *2. The tax imposed under subsections 4-11.6 and 4-11.7 on gas service shall*
18 *not apply to any household which receives gas utility service from an alternative utility*
19 *service supplier and that household qualifies for discounted gas utility service rates under*
20 *a program adopted by the alternative service supplier based upon meeting certain income*
21 *criteria.*

22
23 *3. The tax imposed under subsection 4-11.27 on water utility service shall not*
24 *apply to any household which receives water utility service from an alternative water utility*
25 *service supplier and that household qualifies for discounted water utility service rates*
26 *under a program adopted by the alternative service supplier based upon meeting certain*
27 *income criteria.*

1 SECTION 4: AMENDMENT TO PARAGRAPH (a) AND ADDITION OF
2 PARAGRAPH (g) TO SUBSECTION 4-11.5 OF SECTION 4-11 OF THE
3 MUNICIPAL CODE.

4 Chapter IV, Section 4-11, Subsection 4-11.5, paragraph (a) of the City of Albany Municipal
5 Code is hereby amended and paragraph (g) is hereby added to the City of Albany Municipal
6 Code to read:

7
8 **"4-11.5 Electricity Users' Tax.**

9 (a) There is hereby imposed a tax upon every person using electricity in the City. The tax
10 imposed by this section shall be at the *maximum* rate of seven ~~(7%)~~ *nine and one-half (9.5%)*
11 percent of the charges made for such electricity, and for any supplemental services or other
12 associated activities directly related to and/or necessary for the provision of electricity to the
13 service user, which are provided by a service supplier or non-utility service supplier to a
14 service user. The tax shall be collected from the service user by the service supplier or non-
15 utility service supplier, or its billing agent.
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18
19 ***(g) If this ordinance is enacted by the voters, the City Council will endeavor to expend***
20 ***at least one-third (1/3) of the additional revenue generated from the increase in the***
21 ***maximum electricity users' tax rate (above 7%) for the following spending priorities:***

22 1. ***Those Action Items in the City's Climate Action and Adaptation Plan,***
23 ***approved by the City Council on December 2, 2019, and as it may be amended from time***
24 ***to time by the City Council.***

25 2. ***Additional environmental sustainability programs as may be authorized by***
26 ***the City Council.***
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1 *Notwithstanding anything to the contrary, this paragraph (g) shall not be construed, and it*
2 *is not the Voter's intent, to convert all or any of the electricity users' tax into a "special*
3 *tax", as that term is defined Article XIIC §1(d) of the California Constitution, California*
4 *Government Code §§53721 and 53724, or any combination thereof. Although this*
5 *paragraph expresses the Voter's desire that additional electricity users' tax revenues be*
6 *expended for certain priorities, this expression is non-binding on any future or*
7 *subsequently constituted City Council, and the electricity users' tax shall remain a "general*
8 *tax" as that term is defined in Article XIIC §1(a) of the California Constitution, the*
9 *revenues from which may be budgeted by the City Council to pay for any valid expense of*
10 *the City."*

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12
13 **SECTION 5: AMENDMENT TO PARAGRAPH (a) AND ADDITION OF**
14 **PARAGRAPH (g) TO SUBSECTION 4-11.6 OF SECTION 4-11 OF THE**
15 **MUNICIPAL CODE.**

16
17 Chapter IV, Section 4-11, Subsection 4-11.6, paragraph (a) of the City of Albany Municipal
18 Code is hereby amended and paragraph (g) is hereby added to the City of Albany Municipal
19 Code to read:

20
21 **"4-11.6 Gas Users' Tax.**

22 There is hereby imposed a tax upon every person using gas in the City, which is transported
23 and delivered through a pipeline or by mobile transport. The tax imposed by this subsection
24 shall be at the *maximum* rate of seven ~~(7%)~~ *nine and one-half (9.5%)* percent of the charges
25 made for such gas, including all services related to the storage, transportation and delivery of
26 such gas.
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1 The tax shall be collected from the service user by the service supplier or non-utility service
2 supplier, or its billing agent, and shall apply to all uses of gas, including but not limited to,
3 heating, electricity generation, and the use of gas as a component of a manufactured product.
4 Notwithstanding the foregoing, the charges made for the baseline rate usage approved by the
5 California Public Utilities Commission for gas furnished to a residential service user shall be
6 exempt from the tax levied by this subsection 4-11.6.
7

8

9 *(g) If this ordinance is enacted by the voters, the City Council will endeavor to expend*
10 *at least one-third (1/3) of the additional revenue generated from the increase in the*
11 *maximum gas users' tax rate (above 7%) for the following spending priorities:*

12
13 *1. Those Action Items in the City's Climate Action and Adaptation Plan,*
14 *approved by the City Council on December 2, 2019, and as it may be amended from time*
15 *to time by the City Council.*

16 *2. Additional environmental sustainability programs as may be authorized by*
17 *the City Council.*

18 *Notwithstanding anything to the contrary, this paragraph (g) shall not be construed, and it*
19 *is not the Voter's intent, to convert all or any of the gas users' tax into a "special tax", as*
20 *that term is defined Article XIII C §1(d) of the California Constitution, California*
21 *Government Code §§53721 and 53724, or any combination thereof. Although this*
22 *paragraph expresses the Voter's desire that additional gas users' tax revenues be expended*
23 *for certain priorities, this expression is non-binding on any future or subsequently*
24 *constituted City Council, and the gas users' tax shall remain a "general tax" as that term*
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1 *is defined in Article XIII C §1(a) of the California Constitution, the revenues from which*
2 *may be budgeted by the City Council to pay for any valid expense of the City.”*

3
4 **SECTION 6: AMENDMENT TO SUBSECTION 4-11.20 OF SECTION 4-11 OF THE**
5 **MUNICIPAL CODE.**

6 Chapter IV, Section 4-11, Subsection 4-11.20 of the City of Albany Municipal Code is
7 hereby amended to read:

8
9 “4-11.20 Notice of Changes to Section/*Collection of Tax.*

10 If a tax under this section is added, repealed, increased, reduced, or the tax base is changed,
11 the Tax Administrator shall follow the notice requirements of California Public Utilities
12 Code Section 799. *Service suppliers shall begin to collect the tax imposed by this section*
13 *as soon as feasible after the effective date of the section, but in no event later than*
14 *permitted by California Public Utilities Code Section 799.”*
15

16
17 **SECTION 7: REPEAL OF SUBSECTION 4-11.25 TO SECTION 4-11 OF THE**
18 **MUNICIPAL CODE.**

19 Chapter IV, Section 4-11, Subsection 4-11.25 of the City of Albany Municipal Code (titled
20 “Interaction with Prior Tax”) is hereby repealed in its entirety.
21

22
23 **SECTION 8: REPEAL OF SUBSECTION 4-11.26 TO SECTION 4-11 OF THE**
24 **MUNICIPAL CODE.**

25 Chapter IV, Section 4-11, Subsection 4-11.26 of the City of Albany Municipal Code (titled
26 “Ratification of Prior Tax”) is hereby repealed in its entirety.
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2 **SECTION 9: ADDITION OF SUBSECTION 4-11.27 TO SECTION 4-11 OF THE**
3 **MUNICIPAL CODE.**

4 Subsection 4-11.27 is hereby added to Chapter IV, Section 4-11 of the City of Albany
5 Municipal Code to read as follows:
6

7 ***“4-11.27 Water Users’ Tax.***

8 ***(a) There is imposed a tax upon every person using water in the City which is***
9 ***transported and delivered through a pipeline distribution system. The tax imposed by this***
10 ***section shall be at the maximum rate of seven and one-half percent (7.5%) of the charges***
11 ***made for such water and shall be collected from the service user by the water service***
12 ***supplier, or its billing agent.***

13
14 ***(b) As used in this subsection, the term “charges” shall apply to all services,***
15 ***components and items that are: i) necessary for or common to the receipt, use or enjoyment***
16 ***of water service; or, ii) currently are or historically have been included in a single or***
17 ***bundled rate for water service by a local distribution company to a class of retail customers.***

18 ***The term “charges” shall include, but is not limited to, the following charges:***

- 19
20 ***1. water commodity charges (potable and non-potable);***
21 ***2. distribution or transmission charges;***
22 ***3. metering charges;***
23 ***4. customer charges, late charges, service establishment or reestablishment***
24 ***charges, franchise fees, franchise surcharges, annual and monthly charges, and other***
25 ***charges, fees and surcharges which are necessary for or common to the receipt, use or***
26 ***enjoyment of water service; and,***
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28

1 5. *charges, fees, or surcharges for water services or programs, which are*
2 *mandated by a water district or a state or federal agency, whether or not such charges, fees,*
3 *or surcharges appear on a bundled or line item basis on the customer billing.*

4 (c) *There shall be excluded from the base on which the tax imposed in this subsection*
5 *computed charges made for water which is to be resold and delivered through a pipeline*
6 *distribution system; and charges made by a municipal water department, public utility or a*
7 *county or municipal water district for water used and consumed by such department, utility*
8 *or district in the conduct of the business of such department, utility or district.*

9 (d) *The tax on water service imposed by this section shall be collected from the service*
10 *user by the water service supplier or its billing agent. The amount of tax collected in one*
11 *(1) month shall be remitted to the Tax Administrator, and must be received by the Tax*
12 *Administrator on or before the twentieth (20th) calendar day of the following month.*

13 (e) *If this ordinance is enacted by the voters, the City Council will endeavor to expend*
14 *at least one-third (1/3) of the revenue generated from the water users' tax for the following*
15 *spending priorities:*

16 1. *Those Action Items in the City's Climate Action and Adaptation Plan,*
17 *approved by the City Council on December 2, 2019, and as it may be amended from time*
18 *to time by the City Council.*

19 2. *Additional environmental sustainability programs as may be authorized by*
20 *the City Council.*

21 *Notwithstanding anything to the contrary, this paragraph (e) shall not be construed,*
22 *and it is not the Voter's intent, to convert all or any of the water users' tax into a "special*
23 *tax", as that term is defined Article XIII C §1(d) of the California Constitution, California*
24 *Government Code §§53721 and 53724, or any combination thereof. Although this*
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1 *paragraph expresses the Voter's desire that water users' tax revenues be expended for*
2 *certain priorities, this expression is non-binding on any future or subsequently constituted*
3 *City Council, and the water users' tax shall remain a "general tax" as that term is defined*
4 *in Article XIII C §1(a) of the California Constitution, the revenues from which may be*
5 *budgeted by the City Council to pay for any valid expense of the City."*

6
7 **SECTION 10: INCREASE TO APPROPRIATIONS LIMIT.**

8 Pursuant to California Constitution Article XIII B, the appropriations limit for the City of
9 Albany is hereby increased by the aggregate sum authorized to be levied by this general tax
10 for fiscal year 2020/2021 and each year thereafter.
11

12
13 **SECTION 11: CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

14 The findings for this Ordinance in compliance with the California Environmental Quality
15 Act ("CEQA") are the same as those set forth in City Council Resolution No. 2020-69 calling
16 for an election on this Ordinance. The CEQA findings set forth in Resolution No. 2020-69
17 are incorporated herein by reference.
18

19
20 **SECTION 12: SEVERABILITY.**

21 If any provision of this Ordinance or the application thereof to any person or circumstance
22 is held invalid, the remainder of the Ordinance and the application of such provision to other
23 persons or circumstances shall not be affected thereby.
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1 **SECTION 13: EFFECTIVE DATE.**

2 Pursuant to California Constitution Article XIII C §(2)(b) and California Elections Code
3 §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters
4 of the City of Albany voting at the General Municipal Election to be held on November 3,
5 2020 and shall become effective 10 days after the City Council has declare the results of the
6 Election.
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1 Ordinance No. 2020-10 was submitted to the People of the City of Albany at the November
2 3, 2020 General Municipal Election. It was approved by the following vote of the People:

3 YES: 5737

4 NO: 4146

5
6 Ordinance No. 2020-10 was thereby adopted by the voters at the November 3, 2020 election
7 and shall become effective ten (10) days following adoption of a resolution declaring the
8 results of the election at a meeting of the City Council held on December 14, 2020 by the
9 following vote:


10
11 AYES: Council Members Barnes, Maass, McQuaid, Nason, and Mayor Pilch

12 NOES:

13 ABSENT:

14 ABSTAIN:

15
16
17
18 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and
19 regularly adopted by the People of the City of Albany, California.
20

21
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23 
24 Anne Hsu, City Clerk