

EXHIBIT A
ORDINANCE NO #05-05

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF ALBANY, CALIFORNIA
ADOPTING A SPECIAL MUNICIPAL SERVICES AND CAPITAL
IMPROVEMENT TAX BY ADDING TO CHAPTER 4 OF THE ALBANY
MUNICIPAL CODE COMMENCING AT SECTION 4-10 ET SEQ**

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

Section 1: Chapter 4-10 et seq., entitled “Albany Municipal Services and Capital Improvement Special Tax” is hereby enacted and shall read as follows:

4-10.01 Title

This section 4-10 may be cited as the “City of Albany Special Municipal Services and Capital Improvement Tax.”

4-10.02 Necessity, Authority, and Purpose

a. The City Council (the “Council”) of the City of Albany (the “City”) hereby determines as follows:

(i) that the cost to maintain basic services at the level required to provide for the health, safety, and general welfare of the residents of the City exceeds the amount of revenues generated from other sources;

(ii) that additional revenues or sources of revenue are needed to fund necessary capital improvements including, but not limited to, the repair of the Veteran’s Memorial Building which will be used to house new and expanded youth and recreational services and to be available as a venue for other City or community events or programs; for the acquisition and development of Pierce Street Park; and for the repair and rehabilitation of streets and storm drains;

(iii) that additional revenues or sources of revenue are needed to fund municipal services and programs, including street maintenance, youth services and recreational programs, library services, and maintenance for City parks, landscaping and facilities; and

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(iv) that the levy of a city-wide special tax as hereinafter provided is necessary to fund the foregoing municipal capital improvements and services.

b. This Ordinance was approved by the voters of the City at the consolidated state election held on November 8, 2005 by the following vote:

Yes: _____ No: _____ .

Accordingly, the City of Albany Municipal Services and Capital Improvements Special Tax (the "Tax") is levied under this Chapter pursuant to the City's Charter, Section 37100.5 of the California Government Code, and other applicable laws. Under the Charter, it is hereby expressly provided that, as an exercise of its municipal affairs powers, the City shall be authorized to use all or a portion of the Tax allocated for capital improvements to pay installments of principal and interest on leases or similar instruments for the purposes of providing financing for any capital improvements hereunder.

4-10.3 Tax Levied

The Tax not exceeding the maximum amounts set forth in this section 4-10.3 is hereby levied, commencing in the fiscal year 2006-2007, on all taxable properties, improved or unimproved, within the boundaries of the City at the maximum flat rate of one hundred forty five dollars (\$145.00) per Single Family Equivalent Residential Unit ("ERU"). For the purposes of defining an Equivalent Residential Unit, the following categories are established:

- a) Single family residential (1);
- b) Multi-family residential unit (.75);
- c) Condominium (.85);
- d) Non-residential: For non-residential parcels the minimum tax rate shall be equal to one ERU (\$145.00) for every parcel of 4000 square feet or less. The ERU for non-residential parcels over 4000 square feet will be based on parcel square

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footage and by land use category as follows:

<u>Land Use Category</u>	<u>Area (SFE)</u>
Commercial	4000
Industrial	4000
Vacant Land at ½ the developed rate	

Example: Assessment calculation for a commercial parcel with an area of 9,700 Sq.Ft.:

$$9,700 \text{ SF} / 4000 \text{ SF} = 2.43 \text{ SFE}$$

$$2.43 \text{ SFE} * (\$145) = \$352.35$$

For purposes of this Chapter, “taxable” properties are those not owned by the City, the State of California, any other public district or agency of the State or the United States of America. “Improved” properties are those other than those devoid of any structure as of June 1 of any fiscal year. “Vacant” properties are those which are unimproved, but shall not include unimproved parcels which are dedicated as open space or parklands. The Tax shall not exceed the maximum amounts set forth in this section 4-10.3, except that the Tax may be increased annually by the annual percent increase for the prior calendar year, if any, in the All Urban Consumer All Items Consumer Price Index (CPI-U, 1982 – 1984 = 100) for San Francisco-Oakland-San Jose, California. For the purposes specified in section 4-10.4 a. below, the Tax shall be levied so long as it is necessary to pay for any financing of capital improvements, and so long as necessary for operational programs and services as specified in section 4-10.4 b.

4-10.4 Purposes and Uses of Tax

The proceeds of the Tax shall be deposited in a special fund, maintained by the City, which proceeds, together with any interest and penalties thereon, collected each fiscal year (collectively, the “Tax Proceeds”), shall be used for the following purposes:

- a. Forty percent (40%) of the Tax Proceeds are to be used to fund capital improvements, including but not limited to the acquisition and improvement of park and

1 recreation facilities, such as the renovation and repair of the Veteran’s Memorial
2 Building to be used to house youth and recreational programs and to be available as a
3 venue for other City and community events; the acquisition, development and
4 improvements needed for Pierce Street Park; and the repair, rehabilitation, and other
improvements needed for streets and storm drains.

5 b. The remaining sixty percent (60%) of the Tax Proceeds shall be used for
6 municipal services and programs as follows:

- 7 i. Twenty five percent (25%) shall be used for annual street
8 maintenance;
- 9 ii. Thirteen percent (13%) shall be used to provide youth services and
10 recreational programs;
- 11 iii. Twelve percent (12%) shall be used to provide library services;
12 and
- 13 iv. Ten percent (10%) shall be used for annual maintenance of City
14 parks, landscaping and other facilities.

15 **4-10.5 Exemptions**

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

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

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

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

16 **4-10.6 Computation and Collection of Tax**

17 The City's Director of Finance and Administrative Services (the "Finance
18 Director") or his/her designee or employee is hereby authorized and directed each fiscal
19 year, commencing with the fiscal year 2006-2007, to determine the Tax amount to be
20 levied for the next ensuing fiscal year for each taxable parcel of real property within the
21 City, in the manner and as provided in Section 4-10.3. The Finance Director is hereby
22 authorized and directed to provide all necessary information to the auditor/tax collector
23 of the County of Alameda to effect proper billing and collection of the Tax, so that the
installments of the Tax shall be included on the secured property tax roll of the County of

1 Alameda. Unless otherwise required by the Council, no Council action shall be required
2 to authorize the annual collection of the Tax as herein provided.

3 **4-10.7 Accountability**

4 Pursuant to Sections 50075.1 and 50075.3 of the California Government Code,
5 the specific purposes of the Tax and the requirement that the Tax Proceeds be applied to
6 such purposes and the establishment of a special fund for the Tax Proceeds are as set
7 forth in section 4-10.4. So long as the Tax is collected hereunder, commencing not later
8 than July 1, 2007, the Finance Director is hereby authorized and directed to cause to be
9 prepared and filed with the Council a report that shows the amount of Tax collected and
10 expended and the status of any projects funded with the Tax Proceeds. For purposes of
11 this section 4-10.7, the Finance Director is authorized to retain such consultants, accounts
12 or agents as may be necessary or convenient to accomplish the foregoing.

13 **4-10.8 Examination of Books and Records.**

14 The Finance Director or his/her designee or employee or agent, is hereby
15 authorized and directed to examine assessment rolls, property tax records, records of the
16 Alameda County Recorder and any other records of the County of Alameda deemed
17 necessary in order to determine ownership of parcels and computation of the Tax.

18 **4-10.9 Collection of Tax: Interest and Penalties.**

19 The Tax shall be collected in the same manner as ordinary ad valorem taxes are
20 collected and shall have the same lien priority, and be subject to the same penalties and
21 the same procedure and sale in cases of delinquency as provided for ad valorem taxes
22 collected by the County of Alameda; provided, however, that the Council may provide
23 for other appropriate methods of collection of the Tax by appropriate resolution(s) of the
24 Council

25 **4-10.10 Collection of Unpaid Taxes.**

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

1 under the provisions of this Chapter shall be personally liable to an action brought in the
2 name of the City, at its option, for the recovery for such amount.

3 **4-10.11 Refund of Tax, Penalty, or Interest Paid More Than Once; or**
4 **Erroneously or Illegally Collected.**

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

11 **4-10.12 Savings Clause.**

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

19 **4-10.13 Regulations.**

20 The Council is hereby authorized to promulgate such regulations as it shall deem
21 necessary in order to implement the provision of this section, including implementing
22 this section which is hereby codified in Chapter IV, Section 4-10 et seq. of the Albany
23 Municipal Code or as otherwise directed by the Albany City Clerk.

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4-10.14 Increase Appropriations Limit.

Pursuant to California Constitution Article XIII B, the appropriation limit for the City of Albany is hereby increased by the aggregate sum authorized to be levied by this Tax for fiscal year 2006/07 and each year thereafter.

4-10.15 Effective Date.

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

ROBERT GOOD
MAYOR