RESOLUTION NO. 2018-98

A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING AND GIVING NOTICE OF A GENERAL ELECTION TO BE HELD NOVEMBER 6, 2018 AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION; AUTHORIZING THE CITY CLERK OR HER DUTY AUTHORIZED OFFICERS TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION FOR THE PURPOSE OF ELECTING TWO PERSONS TO FILL THE OFFICE OF CITY COUNCIL MEMBER AND THREE PERSONS TO FILL THE OFFICE OF BOARD OF EDUCATION MEMBER, AND FOR SUBMITTING TO THE VOTERS AN ORDINANCE AMENDING ARTICLE 4-12, CHAPTER IV OF THE ALBANY MUNICIPAL CODE EXTENDING THE DURATION OF THE EXISTING ONE-HALF CENT TRANSACTIONS AND USE (SALES) TAX; AN ORDINANCE ENACTING A PARCEL TAX TO FUND PARKS AND OPEN SPACE IMPROVEMENTS AND MAINTENANCE; AND AN AMENDMENT TO THE ALBANY CITY CHARTER SECTION 3.01 TO MAKE THE CITY TREASURER POSITION APPOINTEE

WHEREAS, Section 2.01 of the Albany City Charter provides that the City's General Municipal Election will be held on each even year and shall be consolidated with the Statewide General Election and that the Statewide General Election shall be held in said City on Tuesday, November 6, 2018; and

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

WHEREAS, the City of Albany is a charter city and pursuant to Article XI, Section 7 of the California Constitution and Section 1.03 of the Albany City Charter is empowered to exercise all powers necessary and appropriate for a municipal corporation and the general welfare of its inhabitants; and
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, the City Council desires to submit three ballot measures to the voters of the City of Albany for their approval and adoption at the general election to be held in the City on November 6, 2018; and

WHEREAS, the three ballot measures are as follows:

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

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

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

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

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

WHEREAS, Election Code §§9282-9287 set forth procedures for submittal of arguments supporting or opposing any city ballot measure.
NOW THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY

RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

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

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

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

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

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

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

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

(A) To continue providing and maintaining City services and facilities, shall the City of Albany make its existing transactions and use (sales) tax permanent, providing
$1.4 million annually for unrestricted general revenue purposes, without increasing the rate, with annual independent audits, and all funds spent only in Albany?

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

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

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

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

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

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

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

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

Section 7  A subcommittee, or subcommittees, comprised of up to two Council Members per subcommittee, as established by motion of the City Council, is hereby authorized to prepare and file written arguments in favor or against the ballot measures not to exceed 300 words, on behalf of the Albany City Council. At the subcommittee’s discretion, the arguments may also be signed by bona fide organizations
or by individual voters. A subcommittee comprised of up to two Council Members is also hereby authorized to prepare and file a written rebuttal to an argument not to exceed 250 words, on behalf of the Albany City Council. At the subcommittee’s discretion, the rebuttal may also be signed by bona fide organizations or by individual voters.

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

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

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

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

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

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

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

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

Section 17  The Alameda County Registrar of Voters is hereby requested to include the ballot measures, with the ballot questions, referred to herein and set forth in
Exhibit “A” through Exhibit “C” in the voter pamphlet, and to number and designate the ballot measures as appropriate.

Section 18 The Voter Pamphlet shall include the ballot questions’ wording to the voters, the questions as presented before the text, and the exact wording of the proposed Albany Municipal Code sections or present Albany Municipal Code or Albany City Charter sections with language to be deleted shown in strikeout type and the language to be added to be shown in underlined, italicized, or otherwise highlighted in the Exhibits “A” through “C” attached hereto.

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

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

Peggy McQuaid, Mayor
RESOLUTION NO. 2018-98

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,
The 16th day of July, 2018, by the following votes:

AYES: Council Members Barnes, Maass, Nason, Pilch and Mayor McQuaid
NOES: None
ABSENT: none
ABSTAINED: none
RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this
30th day of July, 2018.

Eileen Harrington

Eileen Harrington
DEPUTY CITY CLERK

The City of Albany is dedicated to maintaining its small town ambiance, responding to the needs of a diverse community, and providing a safe, healthy and sustainable community.
EXHIBIT “A”

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

To continue providing and maintaining essential City services, such as: fire and police protection, public safety and emergency response, facilities maintenance, and environmental preservation, shall the City of Albany measure making its existing one-half cent transactions and use (sales) tax permanent, providing $1.4 million annually for unrestricted general revenue purposes, without increasing the rate, with annual independent audits, and all funds spent only in Albany, be adopted?

YES ________

NO ________

ORDINANCE NO. 2018-07

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

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

WHEREAS, the proceeds of the tax imposed by Measure F have helped the City of Albany to continue providing and maintaining a wide variety of essential public services, including: fire and police protection, safety, and emergency response; recreational programs, parks, playgrounds and open space; senior and youth programs and facilities; community development; environmental preservation; and other general City services and facilities; and
WHEREAS, the City has determined that it is in the best interest of the People of Albany that the tax remain in effect permanently; and

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

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

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

SECTION 1.
This Ordinance is enacted in accordance with the authority granted to cities by Article XI, Section 7, of the California Constitution and Revenue and Taxation Code section 7285.9.

SECTION 2.
Chapter IV, Article 4-12, Section 4-12.17 of the City of Albany Municipal Code is hereby amended to read:

4-12.17 TERMINATION DATE
The authority to levy the tax shall remain in effect unless a later ordinance terminating said tax is adopted and approved by the voters.
SECTION 3.

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

SECTION 4.

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

SECTION 5.

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

SECTION 6.

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

SECTION 7.

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

SECTION 8.

This Ordinance relates to the levying and collection of the City Transactions and Use Taxes and shall take effect immediately.
Ordinance No. 2018-07 was submitted to the People of the City of Albany at the November 6, 2018 general municipal election. It was approved by the following vote of the People:

YES:
NO:

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

AYES:
NOES:
ABSENT:
ABSTAIN:

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

Anne Hsu, City Clerk
EXHIBIT “B”

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

To maintain and improve park and open space facilities, with funding that cannot be taken by Sacramento, including maintaining: City parks, ballfields, play structures, picnic areas and restrooms; vegetation management to prevent wildfires; creek habitat; and Albany Hill open space; shall the City of Albany measure levying an ongoing park and open space parcel tax with a typical rate of $69 for a single-family residence, providing $463,675 annually, exempting low-income residents, with annual independent audits, be adopted?

YES ______
NO ______

ORDINANCE NO. 2018-05

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

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

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

WHEREAS, the City of Albany—like all California cities—has faced decreasing revenues to make infrastructure investments and improvements to City parks and open space areas; and
WHEREAS, without a dedicated source of additional funding to invest in the ongoing maintenance and improvement of Albany’s parks and open space, the City would be unable to fully address needed maintenance obligations; and

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

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

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

WHEREAS, the City has over a mile of natural creek area and has conducted a number of projects to enhance local creeks and adjoining habitat, along with additional projects planned for the future, that require ongoing monitoring and maintenance; and
WHEREAS, the City owns approximately 15 acres of land on Albany Hill that requires ongoing maintenance as an open space public park, and the Albany Hill Creekside Park Master Plan details maintenance activities for Albany Hill to protect, maintain and enhance natural features, native vegetation and wildlife habitats, to protect cultural resources and to improve basic access for the public; and

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

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

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

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

WHEREAS, in light of the foregoing benefits and considerations, the City wishes to improve its commitment to City parks and open space areas for the benefit and enjoyment of our entire community; and
WHEREAS, the City wishes to alleviate the impact of the proposed special tax on low-income residents by providing a tax exemption for owner-occupants of single-family and multi-family residences and by providing a tax rebate for renters residing in rental units; and the City finds that provision of rebate payments is a permissible use of the special tax revenues; and

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

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

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

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

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

4-15 PARKS AND OPEN SPACE SPECIAL PARCEL TAX

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

4-15.2 DEFINITIONS.
A. “City” means the City of Albany.

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

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

D. “Multi-family residential parcel” means all parcels that are improved with more than one residential unit.

E. “Nonresidential parcel” means all parcels that are improved with uses other than residences.

F. “Owner” means the owner or owners of the real property located within the City.

G. “Parcel” means any real property designated by an assessor’s parcel map and parcel number and carried on the secured property tax roll of the County of Alameda.

H. “Parks and Open Space” means any public park or open space owned by the City of Albany including: six public parks referred to as Dartmouth Tot Lot, Memorial Park, Oceanview Park, Ohlone Greenway, Jewel’s Terrace Park, and Peggy Thomsen Pierce Street Park; Albany Hill Open Space Area and Albany waterfront; over one mile of Albany Creeks including Cerrito, Middle and Codornices Creek; City trees and street trees.
I. “Single-family residential parcel” means all parcels which are improved with only one residential unit.

J. “Special tax” means the special tax imposed by this Article.

4-15.3 TAX IMPOSED.

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

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

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

D. Real property otherwise wholly exempted from ad valorem tax by state law shall also be exempted from any liability for the special tax.
E. The tax imposed by this Section shall be subject to the exemptions and rebates set forth in this Section.

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

2. Renters who reside in a residential rental unit within the City of Albany whose combined family income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low-income" for a family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 et seq.), for such year may apply for a rebate of the special tax imposed by this section that applies to the rental unit in which they reside. Renters must apply for the rebate provided in this section annually by application to the Finance Director in the manner and at the time set forth by the Finance Director. Such applications shall be on forms provided by the Finance Director and shall provide such information as the Finance Director may require. If the Finance Director determines the need to audit an application, the Finance Director may require additional information, including, but not limited to, federal income tax returns and W-2 forms of renter occupants eligible for this exemption. Only one such rebate shall be allowed annually to a rental unit.
4-15.4  **TAX RATES.**

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

<table>
<thead>
<tr>
<th>Parcel Type</th>
<th>Size of Parcel</th>
<th>Rate, per parcel, unit, or acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family Residential</td>
<td>Not Applicable</td>
<td>$69.00 per unit</td>
</tr>
<tr>
<td>Condominium/Townhouse</td>
<td>Not Applicable</td>
<td>$51.75 per unit</td>
</tr>
<tr>
<td>Multi-family Residential</td>
<td>Not Applicable</td>
<td>$51.75 per unit</td>
</tr>
<tr>
<td>Non-Residential</td>
<td>&lt; 0.25 acre</td>
<td>$69.00 per parcel</td>
</tr>
<tr>
<td>Non-Residential</td>
<td>&gt; 0.25 acre</td>
<td>$259 per acre</td>
</tr>
</tbody>
</table>

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

\[
\text{Tax rate for the current year} = \text{Tax rate for the preceding year} \times \frac{\text{Change in Consumer Price Index from April of the immediately preceding year to April of the current year or 1.02, whichever is less}}{\text{Tax rate for the preceding year}}
\]

In no event shall the special tax rate for any type of parcel for any year be less than the amount established for the preceding year.

C. If a parcel consists of both residential and nonresidential real property, the tax rate shall be the rate for nonresidential parcels.
D. The assessment roll data of the Alameda County Tax Assessor as of January 1 of each year and City records shall be used to determine the actual use of each parcel of real property for purposes of determining the amount of the special tax for each parcel.

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

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

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

4-15.6. COLLECTION OF UNPAID TAX. The amount of the special tax, any penalty, and any interest imposed under the provisions of this Article shall be deemed a debt to the City. Any person owing money under the provisions of this Article shall be personally liable to an action brought in the name of the City, at its option, for the recovery for such amount.
4-15.7 USE OF TAX REVENUE.

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

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

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

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

A. A separate, special account, referred to as the Parks and Open Space Special Tax Fund, shall be created, into which the proceeds of the special tax, including penalties and interest earned on such proceeds, must be deposited.
B. The specific purposes of the special tax are for the funding of maintenance and improvement of City park and open space facilities; for related election, administration, and legal fees; and for rebates to low-income renters, as set forth in Section 4-15.7. The proceeds of the special tax shall be applied only to those specific purposes.

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

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

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

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

SECTION 4. Pursuant to California Constitution Article XIII B, the appropriation limit for the City of Albany is hereby increased by the aggregate sum authorized to be levied by this special tax for fiscal year 2018/19 and each year thereafter.
SECTION 5. The findings for this Ordinance in compliance with the California Environmental Quality Act ("CEQA") are the same as those set forth in City Council Resolution No. 2018-98 calling for an election on this Ordinance. The CEQA findings set forth in Resolution No. 2018-98 are incorporated herein by reference.

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

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

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

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Anne Hsu, City Clerk
EXHIBIT “C”
PROPOSED AMENDMENT TO SECTION 3.01 OF THE ALBANY CITY CHARTER

Shall Section 3.01 of the Albany City Charter be amended, as set forth in the voter pamphlet, to provide that the City Treasurer shall be appointed by the City Council effective December 10, 2020, or sooner if there is a vacancy in the office?

YES ________
NO ________

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

SECTION 3.01. OFFICERS AND EMPLOYEES.

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

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