



BALLOT MEASURE SUBMITTAL FORM

Official Use Only: Date Stamp

BALLOT MEASURE QUESTION

Jurisdiction Name: **City of Albany**

Election Date: **November 6, 2018**

Note: The information as it appears within the text box will be printed on the ballot and voter guide.

Insert ballot question text here:

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?

TYPE OF MEASURE

- Regular Measure Parcel Tax
 Bond Measure Charter Amendment

PERCENTAGE NEEDED TO PASS

- 50% + 1 66.6667% 2/3
 Other: _____

FULL TEXT OPTION

Full Text to be printed in the Voter Information Pamphlet:

YES (*note: must provide a MS Word file*)

NO – Do not print, but it's accessible at: _____

AUTHORIZED REPRESENTATIVE/CONTACT PERSON

(office use)

Print Name: [REDACTED]

Signature:

Phone #: [REDACTED]

Email: [REDACTED]

CONTACT INFORMATION

(public use)

Phone #: 510-528-5710

Email: cityclerk@albanyca.org

Website: www.albanyca.org

CITY ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE ____

The City Council has placed before the voters the question whether to enact an Ordinance authorizing a tax on all developed property within the City of Albany to fund maintenance and improvement of City parks and open space. A full copy of the Ordinance text is printed in these ballot materials.

In 1996, the voters approved an advisory ballot measure (“Measure R”) supporting formation of a Landscape and Lighting Assessment District (“LLAD”) to fund acquisition, improvement, and maintenance of open space on Albany Hill, recreational playfields throughout the City, and creek restoration. After the LLAD became operative, property owners in Albany received annual assessments, with the rate for a single-family home set at \$69 per year. The City subsequently issued improvement bonds secured by the LLAD revenue. The final LLAD assessments will be levied in fiscal year 2018-19, and the bonds will be fully repaid in September 2019.

The proposed Ordinance would establish a tax on developed residential and non-residential property within Albany, to take effect in the fiscal year following termination of the LLAD. The tax would be a flat amount annually that varies with the size and type of property. The rate would be \$69 annually for a single-family residential parcel. The rate for an apartment, condominium or townhouse would be \$51.75 annually per residential unit. The rate for a non-residential parcel would depend on the parcel size. For parcels of less than 0.25 acre, the rate would be \$69 annually. For parcels of 0.25 acre or greater, the rate would be \$259 annually per acre. Tax rates would be adjusted annually for inflation, based on the Consumer Price Index for the Bay Area. The tax would be collected by Alameda County with regular property taxes. The tax does not have an automatic expiration date; it would remain in effect unless terminated by the voters.

Authorized uses of tax proceeds include park and open space maintenance and improvements, as more specifically set forth in the Ordinance. Tax proceeds may also be used to fund related administrative expenses and rebates to qualifying low-income renters. The tax contains an exemption for qualifying low-income individuals who own and occupy residential properties.

Because the revenue from the parcel tax is legally restricted to certain specific purposes, it is classified as a “special tax,” not a “general tax.” All revenue from the tax would be placed into a special account and restricted to the uses authorized in the Ordinance. The City’s Finance Director is required to prepare and submit to the City Council an annual report regarding the collection and expenditure of the special tax revenues.

A “Yes” vote is a vote in favor of the parcel tax. A “No” vote is a vote against the tax. This measure will be approved if it receives a two-thirds majority of “Yes” votes.

DATED: August 10, 2018

CRAIG LABADIE

CITY ATTORNEY

Argument In Favor of Measure M

This Ballot Measure for essential maintenance of Albany's parks, playfields, and open space was placed on this ballot by a unanimous vote of the Albany City Council. It is designed as an extension of the annual assessment for parks that Albany voters enacted in 1996 as Measure R, and which is now expiring. On past secured property tax statements that assessment appears as "City Landscape 96-1".

The amounts assessed on this proposed parcel tax (\$69 for a single family residence) remain the same for all residential parcels, and replace and augment the amount of the funding the existing assessment provides for park purposes.

Parks, playfields, and open space are essential to our quality of life in Albany. The city acquired additional open space on Albany Hill following the passage of Measure R and it just recently completed development of the new Peggy Thomsen Pierce Street Park. These are welcome additions to our city but also add to our park maintenance requirements.

Albany's limited playfields are intensively used by both children and adults. The Albany Hill forest and the Codornices and Cerrito Creeks require additional maintenance to assure healthy fire-resistant vegetative conditions and clean watercourses - and these needs are expected to grow with changing climate conditions.

Please vote yes on Measure M to sustain the maintenance of Albany's parks, playfields, and open spaces.

Rochelle Nason, Albany Vice Mayor

Nick Pilch, Albany City Council Member

Peggy McQuaid, Albany Mayor

Peter Maass, Albany City Council Member

Michael Barnes, Albany City Council Member

Rebuttal to Argument In Favor of Measure M/ Parcel Tax

This Measure is NOT simply 'designed as an extension of the annual assessment for parks that Albany voters enacted in 1996 as Measure R, and which is now expiring' as the Argument in Favor claims. The new parcel tax is a FOREVER tax. The **existing [Measure R]** parcel tax must be renewed by the voters who approve the performance of City leadership. The Ordinance explains that 'The tax does not have an automatic expiration date; it would remain in effect unless terminated by the voters.' The Argument in Favor skipped right over this critical legal issue. The City Attorney's 'Impartial Analysis' downplayed the huge task voters will have to ever terminate this tax with the statement 'The tax does not have an automatic expiration date; it would remain in effect unless terminated by the voters.' The City Attorney fails to explain that future dissatisfied voters of Measure L will be required to launch an initiative process, pay legal fees and collect thousands of signatures to challenge this sales tax.

This Special Tax and must be spent for specific purposes. However, the vaguely stated multiple purposes '**including** maintaining: City parks, ballfields, play structures, picnic areas and restrooms; vegetation management', are not specific purposes. The word '**including**' creates a loophole not a specific purpose.

The City Attorney explains that 'Tax proceeds may also be used to fund related administrative expenses'. The 'related administrative expenses' are boundless. The City Council must present an honest Special Tax with specific purposes. Vote NO.

Submitted by

Dan B. Walden, Executive Director

Alameda County Taxpayers Association

ARGUMENT AGAINST MEASURE M - SPECIAL PARCEL TAX

The City ALMOST drafted this Special Tax good and proper. The Special Tax and Bond Accountability Act [Act] requires the City to identify the 'specific purposes' of the tax funds. The purpose of the Act [Government Code §50075] is to give taxpayers a guarantee of accountability and to eliminate 'loopholes.' The City's Resolution stated all the right things and then added the loophole of 'including but not limited to'. This catchall phrase allows ANYTHING to qualify as an approved expenditure. Voters must demand accountability at all stages of the administrative process. Don't leave the door open to exploitation. Vote NO, and require a clean proposal.

Submitted by

Dan B. Walden, Executive Director

Alameda County Taxpayers Association

Rebuttal to Argument Against Measure M (Park Funding)

Measure M is completely clear on its specific purposes. Like the existing assessment that it extends, the tax revenue from Measure M is to be used for park and open space maintenance and improvement. It includes a list of illustrative projects – such as trails, ballfields, restoration of natural areas, and park amenities like benches and bathrooms.

The exact projects will be determined by the City Council, with input from both the staff and the volunteer Advisory Committees that serve the city. These decisions will be made with public input, and through the usual annual public budget hearings on the City Manager's proposals for the Parks & Recreation and Public Works departments.

The opposing argument proposes that we've left ourselves a loophole, but this is untrue. The funds can be used for park and open space maintenance and improvement and for no other purpose. The opposing group, never before having shown its presence in Albany, has filed an opposing argument simply to try to instill doubt.

PLEASE VOTE YES ON MEASURE M, and please join our community of active supporters of Albany parks in the public processes that study how best to meet the needs of our parks and our community.

Signatories:

Rochelle Nason, Vice Mayor of Albany

Jack Miller, President, Albany Little League

Carole Fitzgerald, President, Friends of Albany Hill

Susan Schwartz, President, Friends of Five Creeks

Robert Cheasty, Executive Director of Citizens for East Shore Parks
and Former Mayor of Albany

FULL TEXT OF MEASURE ____

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.

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

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:

Tax rate for the current year	=	Tax rate for the preceding year	X	Change in Consumer Price Index from April of the immediately preceding year to April of the current year or 1.02, whichever is less
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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