

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FOSTER CITY CALLING AN ALL MAIL-BALLOT MUNICIPAL BOND ELECTION FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY A MEASURE PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY FOR THE ACQUISITION, CONSTRUCTION, REPAIR AND REPLACEMENT OF PUBLIC LEVEE SYSTEM; DECLARING THE ESTIMATED COST OF THE MUNICIPAL IMPROVEMENTS, THE AMOUNT OF THE PRINCIPAL OF THE INDEBTEDNESS TO BE INCURRED THEREFOR, AND THE MAXIMUM RATE OF INTEREST TO BE PAID THEREON; MAKING PROVISION FOR THE LEVY AND COLLECTION OF TAXES; FIXING THE DATE OF THE ELECTION AS JUNE 5, 2018 AND THE MANNER OF HOLDING THE SAME; AND PROVIDING FOR NOTICE THEREOF

CITY OF FOSTER CITY

WHEREAS, the City of Foster City, California (the "City") maintains the levee along the Bayfront, surrounding the majority of the outer perimeter of the City; and

WHEREAS, the City's levee system is its most valuable asset in providing protection from flood hazards; and

WHEREAS, although the levee system has withstood challenges so far, the Federal Emergency Management Agency (FEMA) has determined that the City's levee system will not meet FEMA requirements into future years; and

WHEREAS, the City Council (the "City Council") has determined that the City's public levee system is in need of improvements to meet Federal Emergency Management Agency ("FEMA") guidelines in order to retain FEMA accreditation and avoid designation of the City as a special flood hazard area by FEMA; and

WHEREAS, the City Council has determined that for the levee system to remain an essential safety element that protects essential City services during storms and high tides, including fire, police, water, sewer and transportation infrastructure, the City must make critical improvements to the levee; and

WHEREAS, unless the City upgrades the levee to meet the required FEMA standards, Foster City will be designated as a special flood hazard area and homeowners and businesses with federally insured loans will be mandated to purchase flood insurance, while remaining at flood risk; and

WHEREAS, levee improvements will protect the City's homes, schools, businesses and roads from flooding, and protect the levee from earthquakes; and

WHEREAS, the City Council has determined that the public interest and necessity demand the construction and completion by the City of the public levee system improvements required to retain FEMA accreditation; and

WHEREAS, after study of alternatives, the City Council has determined that it is advisable to provide the funding for the acquisition and construction of the levee improvements by means of general obligation bonds; and

WHEREAS, all expenditures will be subject to oversight by a committee, composed of citizens appointed by the City Council, and no funds will go toward administrators' salaries or be taken by the State of California; and

WHEREAS, Section 1(b) of Article XIII A of the California Constitution excepts from the general one percent (1%) of full cash value limitation those *ad valorem* taxes used to pay for debt service of any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds (2/3) of the votes cast by voters on the proposition; and

WHEREAS, in the judgment of the City Council, it is advisable to call an election on the question of whether bonds shall be issued and sold and ad valorem taxes be levied for the object and purpose set forth below.

NOW, THEREFORE, THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct.

SECTION 2. Ordering Election. A municipal bond election shall be and is hereby ordered and will be held in the City on Tuesday, June 5, 2018, at which election shall be submitted to the qualified electors of the City the question of incurring a bonded indebtedness of the City for the object and purpose set forth in the following proposition:

PROPOSITION ():

To improve the levee protecting essential city services, including fire, police, water, sewer, transportation infrastructure; protect Foster City homes, schools, businesses from flooding; avoid both Foster City being designated a FEMA special flood hazard area and flood insurance requirements for residents/businesses; shall Foster City issue \$90,000,000 in bonds at legal rates, levy approximately \$40 per \$100,000 assessed valuation, averaging \$5,171,000 collected annually while bonds are outstanding, with citizens' oversight, no funds for administrators, all funds staying local?

The estimated cost of the municipal improvements set forth in the measure is \$90,000,000, including costs authorized pursuant to California Government Code Section 43610.1(a) and (b), which may be paid from the proceeds of the sale of the bonds. The City Manager, upon consultation with the City Attorney and bond counsel to the City, is

hereby authorized and directed to make any changes to the text of the measure as may be convenient or necessary to comply with the intent of this Ordinance, the requirements of election officials, and requirements of law.

SECTION 3. Submission to Qualified Electors. The Council does hereby submit to the qualified electors of the City at the municipal bond election the measure set forth in Section 2 of this ordinance, and designates and refers to the measure in the form of ballot hereinafter prescribed for use at the election.

(a) The municipal bond election shall be held and conducted, and the votes thereof canvassed, and the returns thereof made, and the result thereof ascertained and determined, as herein provided; and in all particulars not prescribed by this ordinance, the election shall be held as provided by law for the holding of municipal elections in the City.

(b) All persons qualified to vote at municipal elections in the City upon the date of the election herein provided for shall be qualified to vote upon the measure submitted at the municipal bond election.

(c) The election shall, if authorized by the County of San Mateo, be conducted exclusively by mail ballot pursuant to Election Code Section 4000 *et seq.*, and the election officers shall thereupon proceed to canvass the ballots cast thereat.

(d) The municipal bond election hereby called shall be consolidated with any other elections to be held in the City on June 5, 2018, all as required by and pursuant to law; and the election precincts, polling places and officers of election within the City for the municipal bond election hereby called shall be set forth in the notice of election officers and polling places for the election to be published by the Registrar of Voters of the County of San Mateo, as required by law, to which notice reference is hereby specifically made for a designation of the precincts, polling places and election officers of the municipal bond election hereby called. Only qualified voters of the City shall be permitted to vote at the municipal bond election.

(e) The City Clerk is hereby authorized, instructed and directed to contract for the procurement and furnishing of any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election and to take all other necessary actions to place the measure on the June 5, 2018 ballot.

(f) The polls for the election shall be open at 7:00 a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, pursuant to Elections Code Section 10242, except as provided in Section 14401 of the Elections Code.

(g) On the ballots to be used at the municipal bond election, in addition to all other matters required by law to be printed thereon, shall appear the "full text" of the measure set forth in Section 2 hereof.

(h) The “full text” of the proposed measure shall appear in the Voter Information Pamphlet.

(i) Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

(j) The Council shall confirm the canvass of the municipal bond election and shall cause to be recorded in its minutes a statement of the results of the municipal bond election as ascertained by the canvass at the first available Council meeting following receipt thereof.

SECTION 4. Bonds. The Council proposes to issue and sell bonds of the City, in one or more series, for the object and purpose, but not exceeding the amount, specified in the measure, if two-thirds of the qualified electors voting on such measure at the municipal bond election shall vote in favor of the measure. The maximum principal amount of the bonds shall be \$90,000,000.

The bonds shall bear interest at a rate not to exceed the maximum legal rate per annum, payable semiannually (except that interest for the first year after the date of the bonds may be made payable at the end of said year), except as may otherwise be permitted by law. The proceeds of the bonds shall be applied only to the specific purpose identified in the measure set forth in Section 2 of the Ordinance and shall be deposited into an account created for such purpose pursuant to Government Code Section 53410. The City Manager shall cause the chief fiscal officer of the City to file with the City Council annually a report complying with the provisions of Government Code Section 53411.

SECTION 5. Publication. The City Clerk of the City is hereby directed, upon the passage and adoption of this ordinance, to publish the same once a week for at least two (2) weeks in the Foster City Islander, a newspaper published once a week in the City. No other notice of the election hereby called need be given.

SECTION 6. Effective Immediately. This ordinance shall be forthwith entered upon the minutes of the City Council and in the Ordinance Book of the City. This ordinance, being an ordinance calling and ordering an election, shall take effect from and after its final passage and approval.

SECTION 7. Certification. The City Clerk shall certify the adoption of this Ordinance.

This Ordinance was introduced and read on the 20th day of February, 2018, and passed and adopted on the 5th day of March, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SAM HINDI, MAYOR

ATTEST:

PRISCILLA TAM, CITY CLERK