

§ _____
CITY OF FOSTER CITY
General Obligation Bonds, Series 2020
(Levee Protection Planning and Improvements Project)

PURCHASE CONTRACT

_____, 2020

City of Foster City
610 Foster City Boulevard
Foster City, California 94404

Ladies and Gentlemen:

The undersigned BofA Securities, Inc. (the “Underwriter”) offers to enter into the following agreement with the City of Foster City (the “City”). Upon the acceptance of this offer by the City, this Purchase Contract will be binding upon the City and the Underwriter. This offer is made subject to the acceptance of this Purchase Contract by the City on or before 5:00 P.M. California time on the date hereof and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice (by facsimile transmission or otherwise) from the Underwriter delivered to the City at any time prior to the acceptance of this Purchase Contract by the City. If the Underwriter withdraws this offer, or the Underwriter’s obligation to purchase the general obligation bonds captioned above (the “Bonds”) is otherwise terminated pursuant to Section 11(c) hereof, then and in such case the City shall be without any further obligation to the Underwriter, including the payment of any costs set forth under Section 12(b) hereof, and the City shall be free to sell the Bonds to any other party.

Capitalized terms used in this Purchase Contract and not otherwise defined herein shall have the respective meanings set forth for such terms in the Resolution (as hereinafter defined).

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth in this Purchase Contract, the Underwriter hereby agrees to purchase from the City, and the City agrees to sell and deliver to the Underwriter, all (but not less than all) of the \$[Par Amount] aggregate principal amount of Bonds.

The Bonds shall be dated the date of delivery thereof and shall have the maturities, subject to the right of prior prepayment, and bear interest at the rates per annum and have the yields all as set forth on Schedule I attached hereto. The purchase price for the Bonds shall be \$[Purchase Price], calculated as the aggregate principal amount of the Bonds in the amount of \$[Par Amount], less an aggregate underwriter’s discount in the amount of \$[Underwriter’s Discount].

Interest with respect to the Bonds will be exempt from State of California personal income taxes, all as further described in the Official Statement, dated the date hereof, and relating to the Bonds (as amended and supplemented, the “Official Statement”).

Section 2. Official Statement. The City ratifies, approves and confirms the distribution of the Preliminary Official Statement with respect to the Bonds, dated _____, 2020 (together with the appendices thereto, any documents incorporated therein by reference, and any supplements or amendments thereto, the “Preliminary Official Statement”), in connection with the offering and sale of the Bonds by the Underwriter prior to the availability of the Official Statement. The City represents that the Preliminary Official Statement was deemed final as of its date for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Corporation under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), except for the omission of offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, delivery date, ratings and other terms of the Bonds depending on such matters.

The City shall provide the Underwriter, within 7 business days after the date hereof (but in any event at least 2 business days prior to the Closing Date (as defined herein)) with a reasonable number of copies of the Official Statement in the form of the Preliminary Official Statement with such changes thereto as have been approved by the Underwriter (which approval shall not be unreasonably withheld), as requested by the Underwriter, for distribution. The City authorizes and approves the distribution by the Underwriter of the Official Statement in connection with the offering and sale of the Bonds. The City authorizes the Underwriter to file, and the Underwriter hereby agrees to file at or prior to the Closing Date (as defined herein), the Official Statement with Municipal Securities Rulemaking Board Rule G-32 (the “MSRB”), or its designees. The Official Statement, including the appendices thereto, any documents incorporated therein by reference, and any supplements or amendments thereto on or prior to the Closing Date is herein referred to as the “Official Statement.”

Section 3. The Bonds and City Documents. The Bonds shall be as described in and shall be issued and secured under the provisions of the following resolution (the “Resolution”):

- RESOLUTION NO. _____ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY PROVIDING FOR THE ISSUANCE OF ITS GENERAL OBLIGATION BONDS, SERIES 2020 (LEVEE PROTECTION PLANNING AND IMPROVEMENTS PROJECT) IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$90,000,000 (the “Master Resolution”), and
- SUPPLEMENT TO RESOLUTION NO. _____ GOVERNING TERMS OF THE \$ _____ CITY OF FOSTER CITY GENERAL OBLIGATION BONDS, SERIES 2020 (LEVEE PROTECTION PLANNING AND IMPROVEMENTS PROJECT) (the “Supplement”).

Section 4. Description of the Bonds. The Bonds shall be payable, and shall be subject to prepayment prior to their respective stated maturities, as provided in the Resolution and as described in the Official Statement. The Bonds are general obligations of the City, secured by *ad valorem* taxes that the City Council of the City has the power and is obligated, and under the Resolution has covenanted, to levy without limitation as to rate or amount upon all property subject to taxation by the City (except certain property which is taxable at limited rates) for the payment of the principal of and interest on the Bonds when due.

Section 5. Purpose of the Bonds. The Bonds are being issued for the purpose of providing funds to finance the improvement of the City's levee system.

This Purchase Contract and the Continuing Disclosure Certificate are sometimes referred to in this Purchase Contract as the "City Documents."

Section 6. City Representations, Covenants and Agreements. The City represents and covenants and agrees with the Underwriter that as of the date hereof:

(a) The City has full legal right, power and authority to enter into the City Documents, to approve the Resolution, and to observe, perform and consummate the covenants, agreements and transactions contemplated by the City Documents and the Resolution; by all necessary official action of the City, the City has duly adopted the Resolution prior to or concurrently with the acceptance hereof and has approved the Preliminary Official Statement and the Official Statement; the Resolution is in full force and effect and has not been amended, modified, rescinded or challenged by referendum; the City has duly authorized and approved the execution and delivery of, and the performance by the City of its obligations contained in, the Resolution and the City Documents; the City has duly authorized and approved the execution and delivery of the Official Statement; and the City is in compliance in all material respects with the obligations in connection with the execution and delivery of the Bonds on its part contained in the Resolution and the City Documents.

(b) As of the date thereof, the Preliminary Official Statement (except for information regarding The Depository Trust Company ("DTC") and its book-entry only system) did not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(c) From the date of delivery of the Official Statement (as hereinafter defined) up to and including the end of the underwriting period (as such term is defined in Rule 15c2-12), the Official Statement (except for information regarding DTC and its book-entry only system) does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. For purposes of this Purchase Contract, the end of the underwriting period shall be deemed to be the Closing Date (as hereinafter defined), unless the Underwriter notifies the City to the contrary on or prior to such date.

(d) If the Official Statement is supplemented or amended pursuant to Section 6(e), at the time of each supplement or amendment thereto and at all times subsequent thereto up to and including the Closing Date or the end of the underwriting period, as the case may be, the Official Statement as so supplemented or amended (except for information regarding DTC and its book-entry only system) will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(e) If between the date of delivery of the Official Statement and the date that is twenty-five days after the end of the underwriting period (i) any event occurs or any fact or condition becomes known to the City that might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter thereof, and (ii) if in the reasonable opinion of the City or the Underwriter such event, fact or condition requires the preparation and publication of a supplement or amendment to the Official Statement, the City will at its expense supplement or amend the Official Statement in a form and in a manner approved by the Underwriter, which approval shall not be unreasonably withheld.

(f) The City is not in material violation of, or in material breach of or in material default under, any applicable constitutional provision, charter provision, law or administrative regulation or order of the State or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, or other agreement or instrument to which the City is a party or to which the City or any of its properties is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a material default or event of default under any such instrument; and the execution and delivery of the City Documents, the adoption of the Resolution and compliance with the provisions of the City Documents and the Resolution will not conflict with or constitute a material breach of or material default under any constitutional provision, charter provision, law, administrative regulation, order, judgment, court decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is subject, or by which it or any of its properties is bound, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its properties or under the terms of any such law, regulation or instrument, except as permitted by the City Documents and the Resolution.

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending, with service of process having been accomplished, or to the best knowledge of the City after due inquiry, threatened by a prospective party or their counsel in writing addressed to the City, (i) in any way questioning the corporate existence of the City or the titles of the officers of the City to their respective offices; (ii) in any way contesting, affecting or seeking to prohibit, restrain or enjoin the execution or delivery of any of the Bonds, or the payment of the principal and interest with respect to the Bonds, or the application of the proceeds of the Bonds; (iii) in any way contesting or affecting the validity of the Bonds or the tax-exempt status of the interest on the Bonds, the Resolution, or the City Documents, or contesting the powers of the City or any authority for the execution and delivery of the Bonds, the approval of the Resolution or the execution and delivery by the City of the City Documents or the Official Statement; (iv) which would likely result in any material adverse change relating to the business, operations or financial condition of the City or the City's ability to levy and collect the *ad valorem* property taxes securing the Bonds, or otherwise satisfy its payment obligations with respect to the Bonds; or (v) contesting the

completeness or accuracy of the Preliminary Official Statement or the Official Statement or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(h) The City will furnish such information, execute such instruments and take such other action not inconsistent with law or established policy of the City in cooperation with the Underwriter as may be reasonably requested (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the Underwriter, and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions; provided, that the City shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction.

(i) The City Documents, when executed or adopted by the City, and the Bonds, when duly authenticated and delivered, will be legal, valid and binding obligations of the City enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium, other laws affecting creditors' rights generally, and to limitations on remedies against cities and counties under California law.

(j) All material authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, court, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the City of, its respective obligations under City Documents and the Resolution have been duly obtained or when required for future performance are expected to be obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds.

(k) The financial statements of the City for the fiscal year ended June 30, 2019, set forth as an Appendix to the Official Statement fairly present the financial position of the City as of the dates indicated and the results of its operations, the sources and uses of its cash and the changes in its fund balances for the periods therein specified to the extent included therein and, other than as set forth in the Official Statement, were prepared in conformity with generally accepted accounting principles applied on a consistent basis.

(l) The City has never defaulted in the payment of principal or interest with respect to any of its general obligation bonds or any other debt.

(m) The City will undertake, pursuant to the Resolution and a Continuing Disclosure Certificate to provide certain annual financial information and notices of the occurrence of certain events, if material, pursuant to paragraph (b)(5) of Rule 15c2-12. An accurate description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement. The City has been and is in compliance

with its continuing disclosure obligations under Rule 15c2-12, as described in the Official Statement.

(n) Between the date hereof and the Closing Date, the City will not supplement or amend the City Documents, the Resolution or the Official Statement in any respect that is material to the obligations of the City under this Purchase Contract without the prior written consent of the Underwriter, which consent shall not be unreasonably withheld.

Section 7. Underwriter's Representations, Covenants and Agreements. The Underwriter represents and covenants and agrees with the City that:

(a) The Underwriter has been duly authorized to enter into this Purchase Contract and to act hereunder.

Section 8. Offering. It shall be a condition to the City's obligations to sell and to deliver the Bonds to the Underwriter and the Underwriter's obligation to purchase and to accept delivery of the Bonds that the entire \$[Par Amount] principal amount of the Bonds shall be issued, sold and delivered by or at the direction of the City and purchased, accepted and paid for by the Underwriter at the Closing. On or prior to the Closing, the Underwriter will provide the City with information regarding the reoffering prices and yields on the Bonds, in such form as the City may reasonably request.

The Underwriter intends to make an initial bona fide public offering of all the Bonds, at prices not in excess of the initial public offering prices as set forth in the Official Statement; provided, however, the Underwriter reserves the right to change such initial public offering prices as the Underwriter deems necessary or desirable, in its sole discretion, in connection with the marketing of the Bonds (but in all cases subject to the requirements of Section 9 hereof), and may offer and sell the Bonds to certain dealers, unit investment trusts and money market funds, certain of which may be sponsored or managed by the Underwriter at prices lower than the public offering prices or yields greater than the yields set forth therein (but in all cases subject to the requirements of Section 9 hereof). The Underwriter will provide, consistent with the requirements of MSRB, for the delivery of a copy of the Official Statement to each customer who purchases a Bond during the underwriting period. The Underwriter further agrees that it will comply with applicable laws and regulations, including without limitation Rule 15c2-12, in connection with the offering and sale of the Bonds.

Section 9. Establishment of Issue Price.

(a) The Underwriter agrees to assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City at Closing an "issue price" or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit C, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the City and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds.

(b) [Except as otherwise set forth in Schedule I attached hereto,] the City will treat the first price at which 10% of each maturity of the Bonds (the "10% test") is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each

separate CUSIP number within that maturity will be subject to the 10% test). Schedule I attached hereto sets forth the maturities of the Bonds for which the 10% test has been satisfied as of the date of this Purchase Contract (the “10% Test Maturities”) and the prices at which the Underwriters have sold such 10% Test Maturities to the public.

[(c) The Underwriter confirms that it has offered the Bonds to the public on or before the date of this Purchase Contract at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in Schedule I attached hereto, except as otherwise set forth therein. Schedule I also sets forth, as of the date of this Purchase Contract, the maturities, if any, of the Bonds for which the 10% test has not been satisfied and for which the City and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the City to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains applicable to any maturity of the Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or
- (2) the date on which the Underwriter has sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public].

The Underwriter will advise the City promptly after the close of the fifth (5th) business day after the sale date whether it has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

(d) The Underwriter confirms that:

(i) any selling group agreement and any third-party distribution agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group and each broker-dealer that is a party to such third-party distribution agreement, as applicable:

(A)(i) to report the prices at which it sells to the public the unsold Bonds of each maturity allocated to it, whether or not the Closing Date has occurred, until either all Bonds of that maturity allocated to it have been sold or it is notified by the Underwriter that the 10% test has been satisfied as to the Bonds of that maturity, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the Underwriter, and (ii) to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the Underwriter,

(B) to promptly notify the Underwriter of any sales of Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter

participating in the initial sale of the Bonds to the public (each such term being used as defined below), and

(C) to acknowledge that, unless otherwise advised by the dealer or broker-dealer, the Underwriter shall assume that each order submitted by the dealer or broker-dealer is a sale to the public.

(ii) any selling group agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allocated to it, whether or not the Closing Date has occurred, until either all Bonds of that maturity allocated to it have been sold or it is notified by the Underwriter or the dealer that the 10% test has been satisfied as to the Bonds of that maturity, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the Underwriter or the dealer, and (B) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the Underwriter or the dealer and as set forth in the related pricing wires.

(e) The City acknowledges that, in making the representations set forth in this section, the Underwriter will rely on (i) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Bonds, as set forth in a selling group agreement and the related pricing wires, and (ii) in the event that a third-party distribution agreement was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Bonds, as set forth in the third-party distribution agreement and the related pricing wires. The City further acknowledges that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement to comply with the requirements for establishing issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Bonds.

(f) The Underwriter acknowledges that sales of any Bonds to any person that is a related party to an underwriter participating in the initial sale of the Bonds to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) “public” means any person other than an underwriter or a related party,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Bonds to the public),

(iii) a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Purchase Contract by all parties.

Section 10. Closing. At [8:30] a.m., California time, on _____, 2020, or at such other time as shall have been mutually agreed upon by the City and the Underwriter (the “Closing Date” or the “Closing”), the City will deliver or cause to be delivered to the account of the Underwriter (through DTC) the Bonds duly executed on behalf of the City, together with the other certificates, opinions and documents set forth in Section 11(d); and the Underwriter will accept such delivery (through DTC) and pay by wire transfer the purchase price of the Bonds set forth in Section 1.

Payment for the delivery of the Bonds shall be coordinated at the offices of Stradling Yocca Carlson & Rauth, a Professional Corporation, in San Francisco, California, or at such other place as may be mutually agreed upon by the City and the Underwriter. Such payment and delivery is called the “Closing.” Kitahata & Company or William Euphrat Municipal Finance, Inc. (the “Municipal Advisors”) shall order CUSIP identification numbers and the City shall cause such CUSIP identification numbers to be printed on the Bonds, but neither the failure to print any such number on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the Underwriter to accept delivery of and pay for the Bonds in accordance with the terms of this Purchase Contract. Physical delivery of the Bonds shall be made to the City Treasurer, as agent for DTC under the Fast Automated Securities Transfer System, or as otherwise instructed by the Underwriter, and will be in printed form, will be prepared and delivered in registered form and will be registered in the name of Cede & Co., as nominee of DTC. The Bonds will be made available to the Underwriter for checking not less than 2 business days prior to the Closing.

Section 11. Closing Conditions. The Underwriter has entered into this Purchase Contract in reliance upon the representations and warranties of the City contained herein and to be contained in the documents and instruments to be delivered at the Closing and upon the

performance by the City of the obligations to be performed hereunder and under such documents and instruments to be delivered at or prior to the Closing, and the Underwriter's obligations under this Purchase Contract are and shall also be subject to the following conditions:

(a) the representations and warranties of the City herein shall be true, complete and correct on the date thereof and on and as of the Closing Date, as if made on the Closing Date;

(b) at the time of the Closing, the City Documents shall be in full force and effect and shall not have been amended, modified or supplemented, and the Official Statement shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter;

(c) (1) the Underwriter shall have the right to cancel its obligation to purchase the Bonds by written notification from the Underwriter to the City if at any time after the date of this Purchase Contract and prior to the Closing:

(i) any event shall have occurred or any fact or condition shall have become known which, in the sole reasonable judgment of the Underwriter following consultation with the City, Bond Counsel and Disclosure Counsel (both as hereinafter defined), either (A) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement or (B) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect; or

(ii) legislation shall be enacted, or a decision by a court of the United States shall be rendered, or any action shall be taken by, or on behalf of, the Securities and Exchange Commission (SEC) which in the reasonable opinion of the Underwriter has the effect of requiring the Bonds to be registered under the Securities Act of 1933, as amended, or requires the qualification of the Resolution under the Trust Indenture Act of 1939, as amended, or any laws analogous thereto relating to governmental bodies; or

(iii) any national securities exchange, the Comptroller of the Currency, or any other governmental authority, shall impose as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriter.

(iv) any state blue sky or securities commission or other governmental agency or body shall have withheld registration, exemption or clearance of the offering of the Bonds as described herein, or issued a stop order or similar ruling relating thereto;

(2) The Underwriter shall have the further right to cancel their obligation to purchase the Bonds by written notification from the Underwriter to the City if at any time after the date of this Purchase Contract and prior to the Closing any of the following

occurs and in the reasonable judgment of the Underwriter would have the effect of materially adversely affecting, directly or indirectly, the market price or marketability of the Bonds, the ability of the Underwriter to enforce contracts for the Bonds or the sale at the contemplated offering price by the Underwriter of the Bonds:

(i) there shall have occurred any materially adverse change in the affairs or financial condition of the City, except for changes which the Official Statement discloses are expected to occur;

(ii) there shall have occurred or any notice shall have been given of any, downgrading, suspension, withdrawal, or negative change in credit watch status by [Moody's Investors Service, Standard & Poor's Ratings Services and Fitch, Inc.] or any other national rating service to any of the City's obligations (including the ratings to be accorded the Bonds);

(iii) any proceeding shall have been commenced or be threatened in writing by the SEC against the City;

(iv) an amendment to the Constitution of the United States or the State of California shall have been passed or legislation shall have been introduced in or enacted by the Congress of the United States or the California legislature or legislation pending in the Congress of the United States shall have been amended or legislation shall have been recommended to the Congress of the United States or to the California legislature or otherwise endorsed for passage (by press release, other form of notice or otherwise) by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or legislation shall have been proposed for consideration by either such Committee by any member thereof or presented as an option for consideration by either such Committee by the staff of such Committee or by the staff of the Joint Committee on Taxation of the Congress of the United States, or legislation shall have been favorably reported for passage to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or a decision shall have been rendered by a court of the United States or of the State of California or the Tax Court of the United States, or a ruling shall have been made or a regulation or temporary regulation shall have been proposed or made or any other release or announcement shall have been made by the Treasury Department of the United States, the Internal Revenue Service or other federal or State of California authority, with respect to federal or State of California taxation upon revenues or other income of the general character to be derived pursuant to the Resolution which may have the purpose or effect, directly or indirectly, of affecting the tax status of the City, its property or income, its securities (including the Bonds) or any tax exemption granted or authorized by State of California legislation or, in the reasonable judgment of the Underwriter, materially and adversely affecting the market for the Bonds or the market price generally of obligations of the general character of the Bonds;

(v) the declaration of war or engagement in, or escalation of, military hostilities by the United States or the occurrence or escalation of any other national emergency or calamity relating to the effective operation of the government of, or the financial community in, the United States;

(vi) the declaration of a general banking moratorium by federal, New York or California authorities, or the general suspension of trading on any national securities exchange or the establishment of minimum prices on such national securities exchanges, or the establishment of material restrictions (not in force as the date hereof) upon trading securities generally by any governmental authority or any national securities exchange or a material disruption in commercial banking or securities settlement or clearances services shall have occurred; or

(vii) an order, decree or injunction of any court of competent jurisdiction, or order, ruling, regulation or official statement by the SEC, or any other governmental agency having jurisdiction of the subject matter, issued or made to the effect that the delivery, offering or sale of obligations of the general character of the Bonds, or the delivery, offering or sale of the Bonds, including any or all underlying obligations, as contemplated hereby or by the Official Statement, is or would be in violation of the federal securities laws as amended and then in effect;

(vii) the New York Stock Exchange or other national securities exchange or any governmental authority, shall impose, as to the Bonds or as to obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of the Underwriter;

(viii) the purchase of and payment for the Bonds by the Underwriter, or the resale of the Bonds by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission.

(d) at or prior to the Closing, the Underwriter shall have received each of the following documents:

(1) the Official Statement, together with any supplements or amendments thereto in the event the Official Statement has been supplemented or amended, with the Official Statement and each supplement or amendment (if any) signed on behalf of the City by its authorized officer;

(2) a copy of the adopted Resolution, certified by the Clerk of the Board of Supervisors as having been duly enacted by the City Council of the City and as being in full force and effect;

(3) a certificate of the City executed by its authorized officer(s), substantially in the form attached hereto as **Exhibit A**;

- (4) an opinion of the City Attorney of the City addressed solely to the City substantially in the form acceptable to Underwriter's Counsel;
- (5) an unqualified opinion of Bond Counsel, in substantially the form set forth in Appendix C to the Official Statement;
- (6) a supplemental opinion of Bond Counsel, addressed to the City and the Underwriter, dated the Closing Date and substantially in the form attached hereto as **Exhibit B**;
- (7) a letter from Jones Hall, A Professional Law Corporation, Disclosure Counsel ("Disclosure Counsel"), addressed and in form and substance acceptable to the City and the City Attorney, with a reliance letter to the Underwriter;
- (8) a letter of Nixon Peabody LLP, Underwriter's Counsel ("Underwriter's Counsel"), dated the Closing Date and addressed to the Underwriter in form and substance acceptable to the Underwriter;
- (9) evidence of required filings with the California Debt and Investment Advisory Commission;
- (10) evidence satisfactory to the Underwriter that [Moody's Investors Service, Inc., Standard & Poor's Ratings Services and Fitch, Inc.] have assigned ratings to the Bonds set forth in the Preliminary Official Statement;
- (11) the Continuing Disclosure Certificate duly executed by the City; and
- (12) such additional legal opinions, certificates, instruments or other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date of this Purchase Contract and as of the Closing Date, of the City's representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction by the City on or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the City.

All of the opinions, letters, certificates, instruments and other documents mentioned in this Purchase Contract shall be deemed to be in compliance with the provisions of this Purchase Contract if, but only if, they are in form and substance satisfactory to the Underwriter and Underwriter's Counsel (provided that the letter described in subsection (d)(8) above shall be deemed satisfactory for purposes of this paragraph). If the City is unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Purchase Contract, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds are terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the Underwriter nor the City shall be under further obligations hereunder, except that the respective obligations of the City and the Underwriter set forth in Section 12 of this Purchase Contract shall continue in full force and effect.

Section 12. Expenses.

(a) Except for those expenses assigned to the Underwriter pursuant to subsection (b) hereof, the Underwriter shall be under no obligation to pay, and the City shall pay, any expenses incident to the performance of the City's obligations under this Purchase Contract and the fulfillment of the conditions imposed hereunder, including but not limited to: (i) the fees and disbursements of Bond Counsel, Disclosure Counsel and the Municipal Advisor; (ii) the fees and disbursements of any counsel, auditors, engineers, consultants or others retained by the City in connection with the transactions contemplated herein; (iii) the costs of preparing and printing the Bonds; (iv) the costs of the printing of the Official Statement (and any amendment or supplement prepared pursuant to Section 6(e) of this Purchase Contract); and (v) any fees charged by investment rating agencies for the rating of the Bonds. The City shall pay for expenses incurred on behalf of its employees which are directly related to the offering of the Bonds, including, but not limited to, meals, transportation, and lodging of those employees.

(b) The Underwriter shall pay (from the expense component of the underwriting discount) all expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds, including but not limited to: (i) all advertising expenses in connection with the offering of the Bonds; (ii) the costs of printing the Blue Sky memorandum used by the Underwriter, (iii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds, including the fees of the CUSIP Service Bureau for the assignment of CUSIP numbers; and (iv) all other expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds, including the fees and disbursements of Underwriter's Counsel and the fees of Digital Assurance Certification, L.L.C. for a continuing disclosure compliance review. The Underwriter is required to pay fees to the California Debt and Investment Advisory Commission in connection with the offering of the Bonds. Notwithstanding that such fees are solely the legal obligation of the Underwriter, the City agrees to reimburse the Underwriter (by way of paying the expense component of the underwriting discount) for such fees.

Section 13. Notices. Any notice or other communication to be given to the City under this Purchase Contract may be given by delivering the same in writing to the City at the address set forth above and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to the Underwriter:

BofA Securities, Inc.
555 California Street
Suite 1160
Mail Code: CA5-705-11-00
San Francisco, CA 94104

Section 14. Parties in Interest. This Purchase Contract is made solely for the benefit of the City and the Underwriter (including the successors or assigns of the Underwriter), and no other person shall acquire or have any right hereunder or by virtue of this Purchase Contract. All of the representations, warranties and agreements of the City contained in this Purchase Contract shall

remain operative and in full force and effect, regardless of: (i) any investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Bonds, pursuant to this Purchase Contract; and (iii) any termination of this Purchase Contract.

Section 15. Invalid or Unenforceable Provisions. In the event that any provision of this Purchase Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Purchase Contract.

Section 16. Counterparts. This Purchase Contract may be executed by facsimile transmission and in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute the Purchase Contract by signing any such counterpart.

Section 17. Governing Law; Venue. This Purchase Contract shall be governed by and interpreted under the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Purchase Contract shall be in the City and County of San Francisco.

Section 18. Arm's Length Transaction. The City acknowledges and agrees that: (i) the Underwriter is not acting as a municipal advisor within the meaning of Section 15B of the Securities Exchange Act, as amended, (ii) the primary role of the Underwriter, as an underwriter, is to purchase securities, for resale to investors, in an arm's length commercial transaction between the City and the Underwriter and the Underwriter has financial and other interests that differ from those of the City; (iii) the Underwriter is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the City and has not assumed any advisory or fiduciary responsibility to the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the City on other matters); (iv) the only obligations the Underwriter has to the City with respect to the transaction contemplated hereby expressly are set forth in this Purchase Contract; and (v) the City has consulted its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it has deemed appropriate.

Section 19. Entire Agreement. This Purchase Contract is the sole agreement of the parties relating to the subject matter hereof and supersedes all prior understandings, writings, proposals, representations or communications, oral or written. This Purchase Contract may only be amended by a writing executed by the Underwriter.

Section 20. Headings. The section headings in this Purchase Contract are inserted for convenience only and shall not be deemed to be a part hereof.

Section 21. This Purchase Contract shall become effective upon execution of the acceptance of this Purchase Contract by the City and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

BOFA SECURITIES, INC.

By: _____
Authorized Officer

CITY OF FOSTER CITY

By: _____
Edmund Suen
Finance Director

ACCEPTED at __ p.m. Pacific Time this ___ day of _____, 2020

APPROVED AS TO FORM:

JEAN B. SAVAREE,
CITY ATTORNEY

By: _____
Jean B. Savaree
City Attorney

SCHEDULE I

<u>Maturity Date</u> <u>(August 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
---	-----------------------------------	----------------------	--------------	--------------

REDEMPTION PROVISIONS

Optional Redemption. The Bonds maturing on or after August 1, 20__ are subject, at the option of the City, to redemption prior to their stated maturities in whole or in part on any date commencing August 1, 20__, at a redemption price equal to the principal amount thereof, together with accrued interest to the date fixed for redemption, without premium.

Mandatory Sinking Fund Redemption. The Bonds maturing on August 1, 20__, are subject to mandatory sinking fund redemption, in part by lot, prior to their stated maturity, on each August 1 on and after August 1, 20__, at a redemption price equal to 100% of the principal amount thereof called for redemption, without premium, plus accrued interest thereon to the date of redemption in the aggregate respective principal amounts set forth in the following table:

<i>Redemption Date (August 1)</i>	<i>Principal Amount of 20__ Bonds to be Redeemed</i>
20__	
20__	
20__ (Maturity)	

The Bonds maturing on August 1, 20__, are subject to mandatory sinking fund redemption, in part by lot, prior to their stated maturity, on each August 1 on and after August 1, 20__, at a redemption price equal to 100% of the principal amount thereof called for redemption, without premium, plus accrued interest thereon to the date of redemption in the aggregate respective principal amounts set forth in the following table:

<i>Redemption Date (August 1)</i>	<i>Principal Amount of 20__ Bonds to be Redeemed</i>
20__	
20__	
20__	
20__	
20__	
20__	
20__ (Maturity)	

EXHIBIT A

FORM OF CERTIFICATE OF THE CITY

§ _____
CITY OF FOSTER CITY
GENERAL OBLIGATION BONDS, SERIES 2020A
(Levee Protection Planning and Improvements Project)

The undersigned Mayor, Interim City Manager and Finance Director, respectively, of the City of Foster City (“the City”), acting in their official capacities, hereby certify as follows in connection with the issuance, sale and delivery of the general obligation bonds captioned above (the “Bonds”):

1. The City is a general law city duly organized and validly existing under the Constitution of the State of California (the “State”), with full right, power and authority to (a) manage, control, hold and convey property for the use and benefit of the City, and (b) enter into and perform all of the transactions contemplated by the Resolution (defined below), the Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”) executed by the City and the Purchase Contract, dated _____, 2020 (the “Purchase Contract”), executed by the City and BofA Securities, Inc., the underwriter of the Bonds. The Resolution, the Continuing Disclosure Certificate and the Purchase Contract are sometimes referred to in this Certificate as the “City Documents.” Capitalized terms not otherwise defined herein shall have the meanings assigned thereto in the Purchase Contract.

2. The representations and warranties of the City contained in the Purchase Contract are true, complete and correct as of the Closing Date as if made on such Closing Date.

3. The City has duly authorized the execution and delivery of the City Documents and the Official Statement, has duly executed and delivered the City Documents and the Official Statement, and is authorized to perform the obligations on its part to be performed under the City Documents; and each of the City Documents constitutes the legal, valid and binding obligation of the City enforceable against the City in accordance with its respective terms.

4. The City is not in breach of or in default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any loan agreement, note, ordinance, resolution, agreement or other instrument to which the City is party or otherwise subject, which breach or default would in any way materially and adversely affect the City Documents or the performance of any of the City’s obligations thereunder. No event has occurred and is continuing that with the passage of time or giving of notice, or both, would constitute such a breach or default. The execution and delivery by the City of the City Documents and compliance with the provisions thereof will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree or any agreement or other instrument to which the City is a party or is otherwise subject; nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge, encumbrance or security

interest of any nature whatsoever upon any of the revenues, property or assets of the City, except as expressly provided or permitted by the Resolution.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands.

Dated: _____, 2020.

CITY OF FOSTER CITY

By: _____
Catherine Mahanpour
Mayor

CITY OF FOSTER CITY

By: _____
Dante Hall
Interim City Manager

CITY OF FOSTER CITY

By: _____
Edmund Suen
Finance Director

EXHIBIT B

FORM OF SUPPLEMENTAL OPINION OF CO-BOND COUNSEL

[TO COME]

EXHIBIT C

**[\$Par Amount]
CITY OF FOSTER CITY
General Obligation Bonds, Series 2020
(Levee Protection Planning and Improvements Project)**

FORM OF ISSUE PRICE CERTIFICATE

The undersigned, on behalf of BofA Securities, Inc. (the “Underwriter”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

[Select appropriate provisions below]

1. [Alternative 1¹ – All Maturities Use General Rule: *Sale of the Bonds*. As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule A.] [Alternative 2² – Select Maturities Use General Rule: *Sale of the General Rule Maturities*. As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule A.]

2. ***Initial Offering Price of the [Bonds] [Hold-the-Offering-Price Maturities].***

a) [Alternative 1³ – All Maturities Use Hold-the-Offering-Price Rule: The Underwriter offered the Bonds to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.] [Alternative 2⁴ – Select Maturities Use Hold-the-Offering-Price Rule: The Underwriter offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.]

b) [Alternative 1 – All Maturities use Hold-the-Offering-Price Rule: As set forth in the Purchase Contract, the Underwriter has agreed in writing that, (i) for each Maturity of the Bonds, it would neither offer nor sell any of the unsold Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the

¹ If Alternative 1 is used, delete the remainder of paragraph 1 and all of paragraph 2 and renumber paragraphs accordingly.

² If Alternative 2 is used, delete Alternative 1 of paragraph 1 and use each Alternative 2 in paragraphs 2(a) and (b).

³ If Alternative 1 is used, delete all of paragraph 1 and renumber paragraphs accordingly.

⁴ Alternative 2(a) of paragraph 2 should be used in conjunction with Alternative 2 in paragraphs 1 and 2(b).

offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any unsold Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.] [Alternative 2 - Select Maturities Use Hold-the-Offering-Price Rule: As set forth in the Purchase Contract, the Underwriter has agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the unsold Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any unsold Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.]

3. ***Defined Terms.***

[(a) *General Rule Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “General Rule Maturities.”]

[(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”]

[(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([DATE]), or (ii) the date on which the Underwriter has sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.]

(d) *Issuer* means the City of Foster City.

(e) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [DATE].

(h) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract

directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Stradling Yoca Carlson & Rauth, a Professional Corporation in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice it may give to the Issuer from time to time relating to the Bonds. The representations set forth herein are not necessarily based on personal knowledge and, in certain cases, the undersigned is relying on representations made by the other underwriters.

BOFA SECURITIES, INC., as Underwriter

By: _____

Name: _____

Dated: [CLOSING DATE]

SCHEDULE A
SALE PRICES OF THE GENERAL RULE MATURITIES AND
INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE
MATURITIES

(Attached)

SCHEDULE B
PRICING WIRE OR EQUIVALENT COMMUNICATION
(Attached)