

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE CALLING A SPECIAL ELECTION AND ORDERING THE SUBMISSION OF A PROPOSITION INCURRING BONDED DEBT FOR THE PURPOSE OF FINANCING AFFORDABLE HOUSING PROJECTS TO THE QUALIFIED VOTERS OF THE CITY OF EMERYVILLE AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 5, 2018**

**WHEREAS**, the City Council (the "City Council") of the City of Emeryville (the "City") recognizes the existence of a housing crisis in the City that has caused housing to become increasingly scarce and expensive, to the point that home ownership and the cost of rental units are now out of reach for many very low, low and middle-income residents, including, but not limited to, veterans, local artists, seniors, people experiencing homelessness, persons with disabilities, and other vulnerable populations; and

**WHEREAS**, the City is in need of safe and affordable housing for Emeryville residents to help very low, low and middle-income households, purchase homes and stay in the community; provide supportive housing for people experiencing homelessness; and

**WHEREAS**, Article XXXIV of the Constitution of the State of California ("Article XXXIV") provides that no low-rent housing project shall be developed, constructed, or acquired in any manner by any state public body until a majority of the qualified electors of the city in which it is proposed to develop, construct, or acquire the project, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election; and

**WHEREAS**, increasing affordable housing will allow people to live in a safe, decent, affordable home and still have enough money for groceries and other basic necessities; and

**WHEREAS**, no funds will be taken by the State of California, and all expenditures will be subject to oversight by an independent committee composed of individuals appointed by the City Council; and

**WHEREAS**, on February 20, 2018, this Council adopted, by a two-thirds vote of all the members of this Council, a Resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY DEMAND THE DEVELOPMENT OF AFFORDABLE HOUSING PROJECTS AND THE FINANCING OF PROJECTS RELATING THERETO THROUGH THE ISSUANCE OF GENERAL OBLIGATION BONDS;" and

**WHEREAS**, in order to provide for the issuance by the City of its general obligation bonds to finance the costs of developing affordable housing projects, it is necessary for this Council to pass an ordinance ordering the submission of the proposition of incurring bonded indebtedness for such purpose to the qualified voters of the City at an election; and

**WHEREAS**, the City is authorized to issue general obligation bonds to finance municipal improvements pursuant to the provisions of Article 1, commencing with section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code (the "Act"); and

**WHEREAS**, under the provisions of the Act, the City Council has determined that a Special Municipal Election shall be held June 5, 2018, to submit to the voters a measure for the purpose of incurring bonded indebtedness for such purpose to the qualified voters of the City at an election; and

**WHEREAS**, the City Council desires to submit to the voters at the election the proposition of incurring bonded indebtedness as hereinafter set forth;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Ballot Proposition.** That the following question shall be submitted to the voters of the City at the Special Municipal Election to be held on June 5, 2018:

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"To provide affordable housing and prevent displacement of vulnerable populations, including low and middle-income households, veterans, local artists, seniors, and the disabled; provide supportive housing for people experiencing homelessness; and help low and middle-income households purchase homes; shall the City of Emeryville issue \$50,000,000 in bonds with an estimated average levy of 4.912 cents per \$100 of assessed value, generating approximately \$3,422,000 annually to pay bonds over 27 years, requiring independent oversight, with all funds staying local?"

\_\_\_\_\_ YES \_\_\_\_\_ NO

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**SECTION 2. Object and Purpose of Bonds.** The object and purpose of issuing the bonds is to finance the costs of providing and/or enhancing the following:

The acquisition or improvement of real property in order to provide affordable housing for extremely low, very low, low and middle-income individuals and families, including vulnerable populations such as veterans, seniors, local artists, the disabled, current or former foster youth, victims of abuse, people experiencing homelessness and individuals suffering from mental health or substance abuse illnesses.

Projects may include:

- a) The acquisition or improvement of real property to produce new affordable housing projects
- b) Provide affordable local housing for low income residents
- c) Provide Article XXXIV housing for 500 units
- d) The rehabilitation of existing multi-family projects that are affordable to extremely low, very low, low and moderate-income families and individuals
- e) Acquisition of additional affordability commitments in new, privately developed mixed-income projects for veterans, seniors, the disabled, current or former foster youth, victims of abuse, people experiencing homelessness homeless and individuals suffering from mental health or substance abuse illnesses
- f) Help low and middle-income households, including local artists, purchase homes and stay in the community with first time homeowner loans
- g) Prevent displacement of vulnerable populations in Emeryville, including extremely low, very low, low and moderate-income households, veterans, seniors and people with disabilities
- h) Provide permanent supportive housing for people experiencing homelessness

The foregoing improvements are referred to herein as the "Projects."

Such projects will be completed as needed. Each project is assumed to include its share of costs of the election and bond issuance, architectural, engineering, and similar planning costs, project and program management costs, construction management (whether by the City or a third-party), and a customary contingency for unforeseen design and construction costs. The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed. In addition, certain construction funds expected from non-bond sources, including funds which have not yet been secured. Therefore, the City Council cannot guarantee that the bonds will provide sufficient funds to allow completion of all listed projects.

**SECTION 3. Estimated Cost of Projects.** The estimated cost of the portion of the costs of the Projects to be paid for from the City's general obligation bonds is \$50,000,000. The estimated cost includes legal and other fees and the cost of printing the bonds and other costs and expenses incidental to or connected with the authorization, issuance and sale of bonds. The cost of constructing the Projects in excess of \$50,000,000 will be paid for from other funds of the City.

**SECTION 4. Principal Amount of Bonds.** The amount of the principal of the indebtedness to be incurred is not to exceed fifty million dollars (\$50,000,000).

**SECTION 5. Maximum Interest Rate.** The maximum rate of interest to be paid on the indebtedness shall be twelve percent (12%) per annum.

**SECTION 6. Issuance and Sale of Bonds.** This City Council does hereby call a special municipal election on Tuesday, June 5, 2018, and submit to the qualified voters of the City, at said Special Municipal Election, the proposition set forth in Section 1 hereof, such approval to constitute the approval required by Article XXXIV and authorization to issue the general obligation bonds contemplated therein. The City proposes to construct and complete the Project, and to issue and sell general obligation bonds of the City pursuant to the Act, in one or more series, in the maximum amount and for the objects and purposes set forth above, if two-thirds of all qualified voters voting on the proposition set forth above vote in favor thereof. The bonds are to be general obligations of the City, payable from and secured by taxes levied and collected in the manner prescribed by laws of the State of California. All of said bonds are to be equally and ratably secured, without priority, by the taxing power of the City.

**SECTION 7. Consolidation; Manner of Conducting Election.** That in all particulars not recited in this Ordinance, the election shall be held and conducted as provided by law for holding municipal elections. That pursuant to the requirements of section 10403 of the California Elections Code, the Board of Supervisors of the County of Alameda (the "County") is hereby requested to consent and agree to the consolidation of a Special Municipal Election with the Statewide Election on Tuesday, June 5, 2018, and said election shall be held in all respects as if there were only one election and only one form of ballot shall be used.

**SECTION 8. Procedure for Voting on Proposition.** Ballots for the election shall be provided in the form and in the number provided by law. Voters shall be provided an opportunity to vote for or against the proposition on the ballot, in accordance with procedures to be adopted by the authorized officers of the County charged with conducting the election.

**SECTION 9. Time and Place of Election.** 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 the time, form, and manner required by law.

**SECTION 10. Publication of Ordinance.** This Ordinance shall be published once a day for at least seven days in a newspaper printed, published and circulated at least six days a week in the City, or once a week for two weeks in a newspaper printed, published and circulated less than six days a week in the City. The first of said publications shall, in either event, be within fifteen (15) days after the adoption of this Ordinance. The City Clerk is hereby directed to fax a copy of this ordinance to the County Registrar of Voters

fax number (510) 272-6982 no later than 4:00 p.m. on Friday, March 9, 2018, and file (or cause to be filed) a certified copy of this resolution no later than the close of business on Friday, March 9, 2018, with the County Registrar of Voters and the Clerk of the County Board of Supervisors.

**SECTION 11. Canvassing Election Returns.** The Board of Supervisors is hereby authorized to canvass the returns of said City Bond Election.

**SECTION 12. Election Instructions.** The Board of Supervisors is hereby requested to issue instructions to the County Elections Department to take any and all steps necessary for the holding of the said consolidated elections.

**SECTION 13. Accountability Requirements.** As required by section 53410 of the Government Code, a statement in substantially the following form shall be included on the ballot for the Bonds, and the City Council covenants to comply with the reporting requirements contained in Section 53411 of the Government Code:

#### **Accountability Measures**

As required by section 53410 of the California Government Code, the following accountability measures are hereby made a part of the City's Bond Measure (the "Measure"):

- (a) The specific purpose of the bonds is to finance the costs of the Project;
- (b) The proceeds from the sale of the City's bonds will be used only for the purposes specified in the Measure, and not for any other purpose;
- (c) The proceeds of the Bonds will be deposited into an Improvement Fund to be held by the City; and
- (d) The City Manager of the City shall file an annual report with the City Council of the City which report shall contain pertinent information regarding the amount of funds collected and expended, as well as the status of the Project.
- (e) All funds would be legally required to be spent in the City, by law no funds cannot be taken by the State.
- (f) All expenditures will be subject to oversight by an independent oversight committee, composed of individuals appointed by the City Council to confirm that Bond expenditures are consistent with the intent of this Ordinance.

**SECTION 14. Estimated Tax Rate.** At this time, the best estimate from official sources of the tax rate required to be levied to fund the bond issue is set forth in the Tax Rate Statement attached hereto as Exhibit A.

**SECTION 15. Reimbursement for Election Costs.** That the City recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

**SECTION 16. Ballot Form and Content.** That the ballots to be used at the election shall be in form and content as required by law.

**SECTION 17. Actions and Materials Necessary for Conducting Election.** That the City Clerk is authorized, instructed and directed to have the County Election Department procure and furnish 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. The City Manager is authorized to make changes to the ballot language as required by the County Clerk and/or County Registrar of Voters.

**SECTION 18. Election Polls.** That 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, except as provided in section 14401 of the California Elections Code.

**SECTION 19. Ballot Arguments.** Pursuant to section 10403 of the California Elections Code, March 9, 2018, is to be the deadline for submission to the Board of Supervisors by a local agency of the ordinance or resolution requesting consolidation with the statewide election and any resolution or ordinance placing a measure on the June 5, 2018, ballot. Pursuant to section 9286 *et seq.* of the California Elections Code, March 14, 2018, at 5:00 P.M. shall be the deadline for submission of arguments in favor of, and arguments against, any local measures on the ballot. If more than one argument for and/or against is received, the priorities established by section 9287 of the California Elections Code shall control.

**SECTION 20. Rebuttal Arguments.** The provisions of section 9285 of the California Elections Code shall control the submission of any rebuttal arguments. The deadline for filing rebuttal arguments shall be March 19, 2018, at 5:00 P.M.

**SECTION 21. Impartial Analysis.** The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

**SECTION 22. Severability.** The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

**SECTION 23. Codification.** This Ordinance shall not be codified in the Emeryville Municipal Code.

**SECTION 24. Effective Date and Posting.** This Ordinance shall become effective immediately as an ordinance relating to an election pursuant to section 36937(a) of the California Government Code upon its adoption by two-thirds vote of all the members of this City Council. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by section 33696 of the California Government Code.

This ordinance was introduced and first read by the City Council of the City of Emeryville at a regular meeting held on Tuesday, February 20, 2018, and passed and adopted by the City Council at a regular meeting held on March 6, 2018, by the following vote:

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK

  
\_\_\_\_\_  
CITY ATTORNEY

## **EXHIBIT A**

### **TAX RATE STATEMENT**

An election will be held in the City of Emeryville (the "City") on June 5, 2018, to authorize the sale of up to \$50,000,000 in bonds of the City for the specific projects listed in the resolution of the City Council of the City authorizing the submission of a proposition therefor to the citizens of the City. If the bonds are authorized, the City expects to sell the bonds in one or more series. Principal and interest on the bonds will be payable from the proceeds of tax levies made upon the taxable property in the City. The following information is provided in compliance with sections 9400-9404 of the California Elections Code.

1. The best estimate from official sources of the average annual tax rate that would be required to be levied to fund that bond issue over the entire duration of the bond debt service, based on assessed valuations available at the time of the election or a projection based on experience within the same jurisdiction or other demonstrable factors is 4.912 cents per \$100 of assessed valuation of all property to be taxed. The best estimate of the final fiscal year in which the tax is anticipated to be collected is 2046-47.

2. The best estimate from official sources of the highest tax rate that would be required to be levied to fund that bond issue, and an estimate of the year in which that rate will apply, based on assessed valuations available at the time of the election or a projection based on experience within the same jurisdiction or other demonstrable factors is 6.335 cents per \$100 of assessed valuation of all property to be taxed. The best estimate of the year in which the highest tax rate will apply is anticipated to be 2019-20.

3. The best estimate from official sources of the total debt service, including the principal and interest, that would be required to be repaid if all the bonds are issued and sold is \$92,389,550.

Voters should note that such estimated tax rates are specific to the repayment of bonds issued under this authorization and are and will be in addition to tax rates levied in connection with other bond authorizations approved or to be approved by the City or any other overlapping public agency.

Voters should note that estimated tax rate is based on the ASSESSED VALUE of taxable property on Alameda County's official tax rolls, not on the property's market value. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon the City's projections and estimates only, which are not binding upon the City. The actual tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount



of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the City based on need for construction funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the City as determined by the Alameda County Assessor in the annual assessment and the equalization process.

Dated: \_\_\_\_\_, 2018.

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City of Emeryville