

ORDINANCE NO. 2069

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ORDERING THE SUBMISSION OF A MEASURE INCURRING BONDED INDEBTEDNESS TO THE QUALIFIED VOTERS OF THE CITY OF SANTA CLARA AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, FOR THE PURPOSE OF FINANCING THE COST OF THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF CERTAIN MUNICIPAL IMPROVEMENT PROJECTS CONSTITUTING PUBLIC INFRASTRUCTURE OF THE CITY, SUBJECT TO ACCOUNTABILITY MEASURES AND COMPLIANCE WITH AN ADOPTED EXPENDITURE PLAN

WHEREAS, the City of Santa Clara (the “City”) is a municipal corporation and charter city duly organized and existing under the Constitution and laws of the State of California;

WHEREAS, the City desires to undertake certain public infrastructure improvements for the City consisting of streets and transportation improvements, improvements to public safety facilities, improvements to parks and community facilities, storm drain and flood collection improvements, and improvements to other City facilities, as more particularly described below (collectively, the “Improvements”);

WHEREAS, the City is authorized to call an election for the purpose of incurring bonded indebtedness and to authorize the issuance of bonds to finance the Improvements, which constitute public infrastructure of the City, pursuant to certain provisions of the California Constitution, including Article XIII A, the California Government Code, including Article 1 of Chapter 4 of Division 4 of Title 4 (commencing with Section 43600) and Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 (commencing with Section 53506) (collectively, the “Bond Law”);

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WHEREAS, the City intends to issue its general obligation bonds (the “Bonds”) under and pursuant to the Bond Law to finance the cost of the acquisition and construction of the Improvements;

WHEREAS, under existing law, approval of the Bonds requires 2/3rds of the voters in the City voting on the measure to vote in favor of the measure;

WHEREAS, Assembly Constitutional Amendment No. 1 (“ACA1”) has qualified for the November 5, 2024 Statewide ballot and would, among other things, change existing law to authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure if the measure proposing that tax is approved by 55% of the voters of the city, county, city and county, or special district, as applicable, and the measure includes specified accountability requirements;

WHEREAS, the foregoing constitutional amendments effectuated by ACA1, if approved at the November 5, 2024 Statewide ballot, would apply to any measure authorizing general obligation bonds of a city that is submitted at the same election as the Voter Approval Ballot Measure;

WHEREAS, the measure to approve the Bonds is intended to and will comply with all the provisions of ACA1, including all of its accountability requirements, so that, if ACA1 is approved on November 5, 2024, approval of the Bonds shall require that 55% (not 2/3rds) of the voters in the City voting on the measure vote in favor of the measure; and

WHEREAS, if the ballot measure authorizing issuance of the Bonds is approved by the requisite number of affirmative votes, the City will be authorized to issue the Bonds.

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**NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA
AS FOLLOWS:**

1. Recitals Correct. The foregoing recitals are true and correct.
2. Purpose and Intent. Pursuant to the authority provided by the California Government Code and California Elections Code, the purpose and intent of this Ordinance is to authorize and direct the submittal to the qualified voters of the City at the general municipal election to be held on November 5, 2024, of a measure authorizing the City to issue general obligation bonds (the “Bonds”) for the purpose of financing the Improvements on the terms set forth below.
3. Findings. The City Council hereby makes the following findings with respect to the proposed measure for the Bonds:

(i) On July 9, 2024, the City Council adopted, by a two-thirds vote of all its members, a resolution entitled “A Resolution of the City Council of the City of Santa Clara, California, Determining that the Public Interest and Necessity Demand the Acquisition, Construction and Improvement of Municipal Improvement Projects Constituting Public Infrastructure of the City, and Their Financing Through the Issuance of General Obligation Bonds,” pursuant to which the City Council has found and determined that the public interest and necessity demand the issuance of general obligation bonds to finance the Improvements, which are municipal improvement projects constituting public infrastructure of the City.

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(ii) In order to provide for the issuance by the City of general obligation bonds to provide financing for the Improvements, it is necessary for the City Council to adopt an ordinance ordering the submission of the measure of incurring bonded indebtedness for such purpose to the qualified voters of the City at a municipal election.

(iii) The City Council desires to submit said ballot measure to the qualified voters of the City at the regular election to be held in the City on November 5, 2024, and to consolidate the bond election with other elections held within the City on that date, by a resolution adopted after the adoption of this Ordinance pursuant to California Elections Code Section 10403 (the "Resolution Calling Election").

4. Call for Election. The City Council hereby orders that there be submitted to the qualified voters of the City, pursuant to the Resolution Calling Election, a measure on incurring bonded indebtedness for the purposes set forth in this Ordinance, at the regular election to be held on November 5, 2024.

5. Ballot Measure. The City Council hereby submits to the qualified voters of the City, at the regular election to be held on November 5, 2024, a measure on issuing the Bonds. The statement of the measure shall be in substantially the form set forth in the resolution of the City placing the measure on the ballot.

6. Object and Purpose of Bonds. The object and purpose of the Bonds is to finance some or all of the costs of the Improvements. The Improvements are more particularly described in that certain Expenditure Plan ("Expenditure Plan") to be attached as Exhibit A to this Ordinance, which shall be approved by the City Council by separate Resolution and presented to the voters as part of the measure for the Bonds.

The authorized Improvements will include all work, facilities and expenditures necessary and incidental to the Improvements described in the Expenditure Plan. Examples of such work, facilities, and expenditures include, but are not limited to: costs of design, engineering, architect and other professional services, inspections, site preparation, utilities, landscaping, construction management and other planning and permitting, legal, accounting and similar costs; a customary construction contingency; demolition and disposal of existing structures; rental or construction of storage facilities and other space on an interim basis for materials and other equipment and furnishings displaced during construction; addressing unforeseen conditions revealed by construction or renovation, and other necessary improvements required to comply with existing building codes and other applicable law, including the Americans with Disabilities Act; costs of the bond election; bond issuance costs; project administration during the duration of such projects, including reimbursement of City staff time; and financing and interest costs on the Bonds.

The final costs, locations, designs, layouts and other components of the Improvements will be determined as plans are finalized, construction bids are awarded, and projects are completed. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

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7. Estimated Cost of Improvements. The estimated cost of the Improvements is \$400,000,000. The estimated cost includes legal or other fees, the costs of printing the Bonds, and other costs and expenses incidental to or connected with the authorization, issuance and sale of the Bonds. To the extent the Improvements financed are revenue-producing public works, the cost of the Improvements may also include bond interest estimated to accrue during the construction period and for a period of not to exceed 12 months after completion of construction.

8. Principal Amount of Bonds. The aggregate principal of the Bonds shall not exceed \$400,000,000.00.

9. Maximum Interest Rate. The maximum rate of interest to be paid on the Bonds shall be the statutory maximum of 12% per annum. Said interest shall be 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. The actual interest rates of each series of the Bonds will be determined at the time of each respective Bond sale.

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10. Issuance and Sale of Bonds. The City proposes to issue and sell the Bonds pursuant to Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code, or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, in one or more series, in the maximum amount and for the objects and purposes set forth above if the requisite number of qualified voters voting on the measure vote in favor thereof. The Bonds will be general obligations of the City payable solely from and secured by ad valorem taxes levied and collected in the manner prescribed by the laws of the State of California, and not from the general fund or other funds of the City. The revenue generated from the ad valorem tax levied and collected will be used for the payment of debt service on the Bonds. All of the Bonds shall be equally and ratably secured, without priority, by the taxing power of the City.

11. Manner of Conducting Election. The election on the Bonds held on November 5, 2024 shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted, and returned, returns canvassed, results declared, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the Resolution Calling Election and the provisions of California law regulating the election with which it is consolidated.

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12. Procedure for Voting on Measure. 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 measure on the ballot, in accordance with procedures to be adopted by the authorized officers of the County of Santa Clara (the “County”) charged with conducting the election.

13. Transparency and Accountability Requirements.

(a) In order to comply with ACA1 and Sections 53410 and 53411 of the California Government Code, the City Council hereby adopts the following accountability requirements relating to the Bonds (the “State Accountability Requirements”):

(i) The proceeds from the sale of the Bonds shall be used only for the purposes specified in this Ordinance, and not for any other purpose, including City employee salaries (other than for reimbursement of staff costs incurred in providing normal and customary project management and delivery services for the Improvements (“Project Related Administrative Costs”)), and other operating expenses. The administrative cost of the City for the Improvements, including any and all Project Related Administrative Costs, shall not exceed 5% of the proceeds from the sale of the Bonds.

(ii) The proceeds from the sale of the Bonds shall only be spent on projects and programs that serve the jurisdiction of the City.

(iii) This Ordinance shall be the ordinance through which projects will be funded and the City hereby certifies that it has evaluated alternative funding sources.

(iv) The City shall conduct an annual, independent performance audit to ensure that the Bond funds are expended pursuant to this Ordinance.

(v) The City shall conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of those proceeds have been expended for the public infrastructure authorized by this Ordinance.

(vi) The City shall post the audits required by clauses (iv) and (v) in a manner that is easily accessible to the public.

(vii) The City shall submit the audits required by clauses (iv) and (v) to the California State Auditor for review.

(viii) The City shall appoint a citizens' oversight committee (the "Bond Compliance COC") to ensure that Bond proceeds are expended only for the purposes described in the measure approved by the voters. Members appointed to the Bond Compliance COC shall receive educational training about bonds and fiscal oversight.

(ix) Any entity owned or controlled by a member of the City Council shall be prohibited from bidding on any work funded by the measure.

(x) A separate account shall be created and held by the City, into which the proceeds of the Bonds shall be deposited and applied solely for the Improvements. Expenditures shall be tracked on a project by project basis to facilitate project oversight and compliance audits.

(xi) The City's Director of Finance shall file a report with the City Council at least annually showing the amount of Bond proceeds collected and expended, and the status of the Improvements.

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If approved by California voters, any transparency or accountability provisions of ACA1 not already expressly provided herein are hereby incorporated by reference in this Ordinance. The City Council hereby declares its intent that this Ordinance and the accountability measures contained herein shall comply with ACA1 and any and all other statutory or other requirements determined to be required for compliance with ACA1. To the extent any provision of this Ordinance is determined to be inconsistent with the terms of ACA1, or any other applicable state law, the City is authorized and directed to make any necessary conforming changes.

(b) In addition to the State Accountability Requirements, the City Council hereby adopts the following local accountability and transparency requirements relating to the Bonds and the use of Bond proceeds (“Local Accountability Requirements”):

(i) Expenditure Plan Requirements. Bond proceeds shall only be used on Improvements in strict accordance with the terms of the adopted Expenditure Plan, as it may be amended from time to time subject to the requirements of Section 13(b)(ii), below.

(ii) Required Process for Amending Expenditure Plan. City staff shall review, analyze and make a recommendation on any proposed substantive amendment to the Expenditure Plan (“Amendment”). Prior to City Council consideration, any such proposed Amendment shall first be submitted to the Bond Compliance COC for their review and recommendation. Any proposed Amendment shall require the unanimous approval of the City Council.

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(iii) Prohibited Uses. In no event shall Bond proceeds may be used for (I) improvements to Levi's Stadium; (II) any Improvements projects for the sole benefit of Levi's Stadium; (III) Improvements projects within .5 miles of Levi's Stadium, except Improvements in existing residential neighborhoods designed to be of substantial direct benefit to those areas and not Levi's Stadium; or (IV) the direct or indirect benefit of any professional sports team.

(iv) Additional Terms for the Bond Compliance COC. The Bond Compliance COC shall consist of 9 members selected by a lottery process and appointed by Council. The committee shall include seven residents, one large business representative, and one small business representative (neither of which must be residents, but both must be either an owner or employee of a business headquartered within the City). Additionally, no business representative shall work for, have previously worked for, or be employed by a firm that provides services to any professional sports teams within the City. The role of the Bond Compliance Committee shall be to (I) ensure that project implementation is consistent with all Bond measure requirements, including the terms of the Expenditure Plan; (II) review and report on annual audits, and (III) review and provided recommendations to the City Council on any proposed amendment to the Expenditure Plan, and (IV) to inform the public concerning the expenditure of Bond proceeds.

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(v) Communications Program. There shall be a Bond measure communications program to enhance accountability and transparency including, at a minimum, the following elements: (I) requirement for an annual public presentation on the Expenditure Plan and the status of the implementation of Improvements projects to the Bond Compliance COC and the City Council presented by the City Manager; (II) requirements for an annual presentation of the independent annual audit(s) required in Section 13(b) above to the COC and the Council Audit Committee; (III) status of all Bond funded projects to be communicated on the City's webpage; and (IV) notice of all proposed Improvements projects to residents within 1,000 feet of such project(s), with public signage providing further information at the project site(s).

These Local Accountability Requirements are intended to supplement and not replace ACA1 or any other applicable state law. To the extent of any duplication or inconsistency, the requirement(s) requiring the greater degree of transparency or accountability shall apply.

14. Identification of Tax. The tax imposed by this measure is an ad valorem tax levied upon taxable property in the City, and will be used to pay the principal and interest on the Bonds.

15. Official Actions. The Mayor, the City Manager, the Director of Finance, the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the Bond measure on the ballot.

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16. Interpretation. The provisions of this Ordinance, being necessary for the health, welfare, and safety of the City and its residents, is to be liberally interpreted to carry out its purposes. No error, irregularity or informality, and no neglect or omission of any officer, in any proceeding taken related to the submission of the measure incurring bonded indebtedness to the qualified voters of the City shall void or invalidate any such proceeding, any Bonds issued by the City or any levy of ad valorem taxes to pay principal of and interest on the Bonds.

17. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications, and to this end the provisions this Ordinance are declared to be severable.

18. Publication of Ordinance. The City Clerk shall cause the proposed ordinance to be posted at least three (3) days prior to its adoption in three (3) public places in the City and at least three (3) days prior to the ordinance adoption shall cause a single publication in an official newspaper. In accordance with Section 43611 of the California Government Code, this Ordinance shall also be published once a day for at least seven days in a newspaper published at least six days a week in the City, or once a week for two weeks in a newspaper published less than six days a week in the City. The first of said publications shall, in either event, be within 15 days after the adoption of this Ordinance. No other notice need be given.

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19. Adoption; Effective Date. This Ordinance must be adopted by two-thirds of all members of the City Council. When adopted, in accordance with Section 36937(a) of the California Government Code, this Ordinance shall become effective immediately, as an ordinance relating to an election.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 9TH DAY OF JULY, 2024, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	Park
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A – Expenditure Plan

EXHIBIT A
EXPENDITURE PLAN