

FOSTER L B CO  
Form DEF 14A  
April 13, 2016

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**SCHEDULE 14A**

**(Rule 14a-101)**

**INFORMATION REQUIRED IN PROXY STATEMENT**

**SCHEDULE 14A INFORMATION**

**Proxy Statement Pursuant to Section 14(a) of the Securities**

**Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under §240.14a-12

**L.B. FOSTER COMPANY**

(Name of Registrant as Specified in Its Charter)

Payment of Filing Fee (Check the appropriate box):

No fee required.

\$125 per Exchange Act Rules O-11(c)(1)(ii), 14a-6(i)(1), 14a-6(i)(2) or Item 22(a)(2) of Schedule 14A.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- 1) Title of each class of securities to which transaction applies:
- 2) Aggregate number of securities to which transaction applies:
- 3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined)
- 4) Proposed maximum aggregate value of transaction:
- 5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

- 1) Amount Previously Paid:
- 2) Form, Schedule or Registration Statement No.:
- 3) Filing Party:
- 4) Date Filed:

**L. B. FOSTER COMPANY**

**415 Holiday Drive**

**Pittsburgh, Pennsylvania 15220**

**NOTICE OF ANNUAL MEETING OF SHAREHOLDERS**

**TO BE HELD ON MAY 25, 2016**

To Our Shareholders:

L. B. Foster Company will hold its Annual Meeting of Shareholders at the DoubleTree Hotel at 500 Mansfield Avenue, Pittsburgh, Pennsylvania on Wednesday, May 25, 2016, at 8:00 AM, Eastern Daylight Time (the “Annual Meeting” or the “Meeting”), for the purposes of:

1. Electing a board of eight directors for the ensuing year;
2. Ratifying the appointment of Ernst & Young LLP as our independent registered public accounting firm for 2016;
3. Advisory approval of the compensation paid to the Company’s named executive officers in 2015;
4. Approval of the Amended and Restated 2006 Omnibus Incentive Plan; and
5. Acting upon any other matters that properly come before the Annual Meeting.

Shareholders are cordially invited to attend the Annual Meeting. Only holders of record of Company Common Stock at the close of business on March 23, 2016 will be entitled to vote at the meeting or at any adjournment thereof.

U.S. Securities and Exchange Commission rules allow companies to furnish proxy materials to their shareholders over the Internet. This process expedites shareholder receipt of proxy materials and lowers the cost of our Annual Meeting. On or about April 13, 2016, we mailed to our shareholders a Notice of Internet Availability containing instructions on how to access our 2016 Proxy Statement and 2015 Annual Report and how to cast your vote. The Notice also includes

instructions on how to receive a paper copy of the Annual Meeting materials.

Your vote is important. Whether you plan to attend the Annual Meeting or not, we hope you will vote your shares as soon as possible. Please sign, date, and return your proxy card or voting instruction form or vote by telephone or via the Internet; instructions are included on the proxy card and voter instruction form. If you plan to attend the Annual Meeting in person, please detach the Admission Ticket from your proxy card and bring it to the Meeting. If you are a beneficial owner of shares held in “street name” through a broker, bank, or other intermediary, please contact your broker, bank, or other intermediary to obtain evidence of ownership and a legal proxy, which you must bring with you to the Meeting.

Patrick J. Guinee  
Vice President, General Counsel &  
Corporate Secretary

Pittsburgh, Pennsylvania

April 13, 2016

Table of Contents

<u>GENERAL INFORMATION</u>	1
<u>PROPOSAL NO. 1 - ELECTION OF DIRECTORS</u>	3
<u>PROPOSAL NO. 2 - RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM</u>	5
<u>PROPOSAL NO. 3 - ADVISORY VOTE ON NAMED EXECUTIVE OFFICERS' 2015 COMPENSATION</u>	6
<u>PROPOSAL NO. 4 - APPROVAL OF THE AMENDED AND RESTATED 2006 OMNIBUS INCENTIVE PLAN</u>	6
<u>SECURITIES AUTHORIZED FOR ISSUANCE UNDER THE EQUITY COMPENSATION PLAN</u>	17
<u>STOCK OWNERSHIP</u>	18
<u>DIRECTOR COMPENSATION – 2015</u>	20
<u>INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FEES</u>	20
<u>Policy for Approval of Audit and Permitted Non-Audit Services</u>	21
<u>CORPORATE GOVERNANCE</u>	21
<u>The Board, Board Meetings, Independence, and Tenure</u>	21
<u>Board Leadership Structure</u>	21
<u>Board Attendance</u>	22
<u>Board's Role in Risk Oversight</u>	22
<u>Diversity</u>	22
<u>Communications with Directors</u>	22
<u>Board Committees</u>	23
<u>Additional Corporate Governance Matters</u>	27
<u>Transactions With Related Parties</u>	28
<u>Compensation Committee Interlocks and Insider Participation</u>	28
<u>Section 16(a) Beneficial Ownership Reporting Compliance</u>	28
<u>EXECUTIVE COMPENSATION</u>	29
<u>Compensation Discussion and Analysis</u>	29
<u>Introduction</u>	29
<u>Executive Summary</u>	29
<u>Summary of 2015 Compensation Arrangements</u>	32
<u>Overview of Compensation Framework</u>	33
<u>Compensation Elements</u>	37
<u>Other Compensation Practices</u>	42
<u>Footnote Definitions for Section: Executive Compensation</u>	44
<u>COMPENSATION COMMITTEE REPORT</u>	48
<u>SUMMARY COMPENSATION TABLE - 2013, 2014 and 2015</u>	49
<u>GRANTS OF PLAN-BASED AWARDS IN 2015</u>	50
<u>OUTSTANDING EQUITY AWARDS AT 2015 FISCAL YEAR-END</u>	51
<u>2015 OPTION EXERCISES AND STOCK VESTED</u>	52
<u>2015 NON-QUALIFIED DEFERRED COMPENSATION</u>	53
<u>POTENTIAL PAYMENTS UPON TERMINATION OR CHANGE-IN-CONTROL</u>	55
<u>Change-In-Control</u>	55
<u>Termination of Employment - Outside of a Change-in-Control</u>	55
<u>Termination Provisions Under Our Equity and Annual Compensation Plans and Programs</u>	55
<u>Termination Provisions Under Our Supplemental Executive Retirement Plan ("SERP")</u>	55
<u>Change-In-Control and/or Related Termination of Employment</u>	55
<u>Change-In-Control Provisions Under the Executive Annual Incentive Compensation Plan</u>	55
<u>Change-In-Control Provisions Under the Key Employee Separation Plan</u>	56
<u>Change-In-Control and Termination Provisions Under Our Equity Compensation Programs</u>	57

<u>AUDIT COMMITTEE REPORT</u>	59
<u>ADDITIONAL INFORMATION</u>	61
<u>APPENDIX A Amended and Restated 2006 Omnibus Incentive Plan</u>	63

## L. B. FOSTER COMPANY

### PROXY STATEMENT

#### GENERAL INFORMATION

This Proxy Statement is furnished in connection with the solicitation of proxies by the Board of Directors (the “Board”) of L. B. Foster Company (the “Company”) to be voted at the May 25, 2016 Annual Meeting of Shareholders and at any adjournment or postponement thereof (the “Annual Meeting” or the “Meeting”). This Proxy Statement, the Notice of Internet Availability, the proxy card, and our 2015 Annual Report to Shareholders were each made available to shareholders on the Internet at [www.proxyvote.com](http://www.proxyvote.com) or mailed on or about April 13, 2016.

At the close of business on March 23, 2016, the record date for entitlement to vote at the Meeting (“Record Date”), there were 10,341,647 shares of common stock outstanding. Only holders of record of our common stock at the close of business on the Record Date are entitled to notice of, and to vote at, the Meeting or at any adjournment or postponement thereof. Such shareholders will have one vote for each share held on that date.

The presence, in person or by proxy, of the shareholders entitled to cast at least a majority of the votes that all shareholders are entitled to cast on a matter to be acted on at the Annual Meeting will constitute a quorum. Where a shareholder’s proxy or ballot is properly executed and returned but does not provide voting instructions, the shares of such shareholder will nevertheless be counted as being present at the Meeting for the purpose of determining a quorum. Abstentions and “broker non-votes” (as described below) will be counted for purposes of determining a quorum.

If your shares are held in “street name” (i.e. held for your account by a broker or other nominee), you should receive instructions from the holder of record on voting your shares. If a shareholder holds shares beneficially in street name and does not provide the shareholder’s broker with voting instructions, such shares may be treated as “broker non-votes.” Generally, broker non-votes occur when a broker is not permitted to vote on a particular matter without instructions

from the beneficial owner and instructions have not been given. Brokers that have not received voting instructions from their clients cannot vote on their clients' behalf on "non-routine" proposals, such as the election of directors and executive compensation matters (for purposes of this Proxy Statement, Proposals 1, 3 and 4), although they may vote their clients' shares on "routine" proposals, such as the ratification of the independent registered public accounting firm (for purposes of this Proxy Statement, Proposal 2). In tabulating the voting result for any particular proposal, shares that constitute broker non-votes are not considered entitled to vote on that proposal.

Directors will be elected by a plurality of the votes cast by the holders of the shares voting in person or represented by proxy at the Meeting. Only votes FOR or AGAINST this proposal count as votes cast. Abstentions and broker non-votes are not considered to be votes cast on this proposal. Our common stock does not have cumulative voting rights in the election of directors.

The Audit Committee of the Board has appointed Ernst & Young LLP ("Ernst & Young") as the Company's independent registered public accounting firm for 2016. The affirmative vote of a majority of the votes cast by the Company's shareholders entitled to vote shall ratify this appointment. Only

votes FOR or AGAINST this proposal count as votes cast. Abstentions and broker non-votes are not considered to be votes cast on this proposal.

The advisory vote to approve the compensation paid to the Company's named executive officers in 2015 as reported in this Proxy Statement will be determined by the affirmative vote of a majority of the votes cast by the Company's shareholders entitled to vote. Only votes FOR or AGAINST this proposal count as votes cast. Abstentions and broker non-votes are not considered to be votes cast on this proposal.

The vote to approve the Amended and Restated 2006 Omnibus Incentive Plan will be determined by the affirmative vote of a majority of the votes cast by the Company's shareholders entitled to vote. Only votes FOR or AGAINST this proposal count as votes cast. Abstentions and broker non-votes are not considered to be votes cast on this proposal.

If the form of proxy is properly executed and returned, it will be voted as directed. If no directions are given, the proxy will be voted FOR the election of the eight nominees named herein as directors; FOR the ratification of the appointment of Ernst & Young as the Company's independent registered public accounting firm for 2016; FOR the approval of the compensation paid to the Company's named executive officers in 2015 as reported in this Proxy Statement; and FOR the approval of the Amended and Restated 2006 Omnibus Incentive Plan. The proxy grants discretionary authority to vote on other matters that properly come before the Annual Meeting to Lee B. Foster II, Chairman of the Board, and Robert P. Bauer, President and Chief Executive Officer.

The voting instruction form also serves as the voting instructions for the trustees who hold shares of record for participants in the Company's 401(k) plans. If voting instructions representing shares in the Company's 401(k) plans are received, but no indication is provided as to how those shares are to be voted, the shares will be counted as being present at the Meeting and will count toward achievement of a quorum. If voting instructions as to the shares in the Company's 401(k) plans are not received, those shares will be voted in the same proportion as shares in the 401(k) plans for which voting instructions were received.

The cost of soliciting proxies will be borne by the Company. Officers or employees of the Company may solicit proxies by mail, telephone, email, or facsimile. The Company has retained Laurel Hill Advisory Group, LLC for the solicitation of proxies and will pay its fee of \$5,000 plus reasonable out-of-pocket expenses.

If you are a shareholder of record, you may vote your shares of Company Common Stock by telephone or through the Internet. You may also vote your shares by mail or in person. Please see the Notice of Internet Availability for instructions on how to access the proxy materials and how to cast your vote.

Edgar Filing: FOSTER L B CO - Form DEF 14A

*Votes submitted via the Internet or by telephone must be received by 11:59 PM EDT, on May 24, 2016. Submitting your vote via the Internet or by telephone will not affect your right to vote in person should you decide to attend the Annual Meeting. You may change your vote or revoke your proxy at any time by submitting a valid, subsequent vote by telephone or through the Internet, by submitting another properly signed proxy which bears a later date, or attending the Annual Meeting and voting in person. Attendance at the Annual Meeting will not by itself revoke a previously granted proxy; you must also vote your shares.*

If you plan on attending the Annual Meeting in person, please detach the Admission Ticket from your proxy card and bring it to the Meeting. If you are a beneficial owner of shares held in “street name”

through a broker, bank, or other intermediary, please contact your broker, bank, or other intermediary to obtain evidence of ownership and a legal proxy, which you must bring with you to the Meeting.

## PROPOSAL NO. 1 - ELECTION OF DIRECTORS

The first proposal item to be voted on is the election of eight directors. The Board of Directors has nominated the following eight people to serve as directors, all of whom are currently serving as directors of the Company. Each director who is elected will hold office until the next annual meeting and generally until the director's successor is elected and qualified. Information concerning the nominees is set forth below with brief descriptions of each nominee's qualifications to serve on the Company's Board of Directors:

### Nominee

**Robert P. Bauer** Mr. Bauer, age 57, has been a director of the Company since February 2012, when he was appointed President and Chief Executive Officer. Since August 2015, Mr. Bauer has served as a director of Alamo Group, Inc., which designs, manufactures, distributes, and services equipment for infrastructure maintenance, agriculture, and other applications, including truck and tractor mounted mowing and other vegetation maintenance equipment, street sweepers, snow removal equipment, excavators, vacuum trucks, and other industrial equipment. Mr. Bauer served as President of Emerson Climate Technologies, Refrigeration Division, a business segment of Emerson Electric Co., a diversified global manufacturing and technology company, ("Emerson") from June 2011 to February 2012. He also served as President of Emerson Network Power, Liebert Division, from January 2002 through May 2011. Mr. Bauer spent a total of 17 years with Emerson in various senior management positions and became a Group Vice President, Emerson in 2004. Prior to Emerson, he held management positions with Rockwell Automation and Westinghouse Electric. We believe that Mr. Bauer is qualified to serve as a director because of his vast experience in global manufacturing, worldwide marketing, and new product development. He also has extensive experience with mergers and acquisitions and strategic planning including investments in new technologies.

**Lee B. Foster II** Mr. Foster, age 69, has been a director of the Company since 1990 and Chairman since 1998. He was the Chief Executive Officer of the Company from May 1990 until he resigned from such office in January 2002, and remained a Company employee until May 2008. Mr. Foster has been a director of Wabtec Corporation since 1999, which manufactures components for locomotives, freight cars, and passenger transit vehicles, and provides aftermarket services. We believe that Mr. Foster is qualified to serve as a director because of his history with the Company and his knowledge of the Company's current businesses, and his corporate governance experience as a member of another public company's board of directors. In addition, Mr. Foster's experience brings additional insight to a variety of our business issues.

**Dirk Jungé** Mr. Jungé, age 67, has been a director since 2015. He is the Chairman of Pitcairn Company, a private Pitcairn family holding company, and Pitcairn Trust Company, a Pennsylvania

Edgar Filing: FOSTER L B CO - Form DEF 14A

state-chartered trust company, since 1991. Until 2012, he served as Chief Executive Officer of Pitcairn, a recognized global leader in the specialized family office marketplace, and has overseen investments in oil and gas and drilling partnerships. Since 2000, he has served as a director of Paramount Resources, Ltd., a public Canadian energy company, with assignments on the corporate governance committee since 2003 and the environmental, health & safety committee since 2011. In 2013, he joined the Board of Directors of Freeman Company, a privately held company and a leader in face-to-face marketing. We believe that Mr. Jungé is

**Nominee**

qualified to serve as a director because of his years of business experience, including in the energy sector and in public and private enterprises, as well as his familiarity with strategic planning, risk management, compensation, finance, and governance matters, which enable him to make a valuable contribution to the Board's business and compliance oversight functions.

**Diane B. Owen**

Ms. Owen, age 60, was elected as a director in May 2002. Since June 2014, she has served as an independent Board Member and Internal Control Committee Chair of Elliott Group Holdings, a subsidiary of Ebara Corporation, an international company that manufactures and services industrial equipment. She was Senior Vice President – Corporate Audit of H.J. Heinz Company, an international food company, from May 2010 to June 2013 and was Vice President - Corporate Audit of H.J. Heinz Company from April 2000 to May 2010. We believe that Ms. Owen is qualified to serve as a director of the Company due to her over 30 years of business experience, particularly in accounting and finance. Ms. Owen plays a critical role as Chairman of the Audit Committee and as the Board's audit committee financial expert. In addition, Ms. Owen's extensive international business experience enables her to provide valuable insights to the Company in its international business interests.

**Robert S. Purgason**

Mr. Purgason, age 60, has been a director of the Company since December 2014. He has been Senior Vice President of The Williams Companies ("Williams") since January 2015, leading the Williams operating area that encompass the assets and operations of Access Midstream, including natural gas gathering and processing. Mr. Purgason is currently a director of Williams Partners, and served as Chief Operating Officer of the general partner of Access Midstream from 2012 to 2015. Prior to joining Access Midstream, Mr. Purgason spent five years at Crosstex Energy Services, L.P. and was promoted to Senior Vice President-Chief Operating Officer in November 2006. Prior to Crosstex, Mr. Purgason spent 19 years with The Williams Companies in various senior business development and operational roles of increasing responsibility. Mr. Purgason began his career at Perry Gas Companies in Odessa, Texas working in all facets of the natural gas treating business. Mr. Purgason's extensive experience in, and keen understanding of, the energy industry brings valuable insight to the Board, particularly with regard to the Company's operations which include pipe threading and coating as well as blending, injection, and custody transfer metering skids for the oil and gas industry. He also brings board experience which contributes to the corporate governance experience of the Board.

**William H. Rackoff**

Mr. Rackoff, age 67, has been a director of the Company since 1996. Since 1994, Mr. Rackoff has been President and Chief Executive Officer of ASKO, Inc., a private international company which manufactures custom engineered tooling for the metalworking industry. We believe that Mr. Rackoff is qualified to serve as a director because his years of experience in the steel industry and his engineering background enable him to understand and develop the factors that drive the Company's performance, including strategy, operations, and finance. Mr. Rackoff, as Chairman of the Compensation Committee, has led the creation of the Company's executive incentive programs.

**Suzanne B. Rowland**

Ms. Rowland, age 54, was elected as a director in May 2008. Ms. Rowland was Vice President and General Manager in the Industrial Fire Products Division of Tyco International from 2011 to 2015 and was Vice President Business Excellence for the Tyco Flow Control Division from 2009 to 2010. Prior to Tyco, Ms. Rowland spent over 20 years with Rohm and Haas Company in senior executive positions including Vice President Global Adhesives, Vice President Coatings North America, and Vice President of Procurement & Logistics. We believe that Ms. Rowland is qualified to



**Nominee**

serve as a director because of her 30 years of broad leadership experience in Fortune 500 global companies. Having served as an operating executive for the last 18 years in mechanical and electrical products, materials, and chemicals, Ms. Rowland brings valuable insight into strategic and operational issues important to the Company's success.

**Bradley  
S. Vizi**

Mr. Vizi, age 32, has been a director since February 2016. He is Founder and has been Managing Director of Legion Partners Asset Management since 2012. Prior to founding Legion Partners, Mr. Vizi was an investment professional for Shamrock Capital Advisors, the alternative investment vehicle of the Disney Family from 2007 to 2010. Prior to Shamrock, Mr. Vizi was a member of the private equity group at Kayne Anderson Capital Advisors. Since 2015, Mr. Vizi has served as Chairman of the Board of Directors for RCM Technologies, Inc., a public staffing and solutions company, and has been a member of its Board of Directors since 2013, serving on the compensation and governance committees. Mr. Vizi brings to the Board a valuable understanding of capital allocation and public markets, experience in compensation and corporate governance matters, and a shareholder perspective regarding enhancing stakeholder value. Mr. Vizi was elected to the Board pursuant to an agreement dated February 12, 2016 (the "Investors Agreement") by the Company with Legion Partners, L.P. I, Legion Partners, L.P. II, Legion Partners Special Opportunities, L.P. II, Legion Partners Holdings, LLC, Legion Partners Asset Management, LLC, Legion Partners Holdings, LLC, Bradley S. Vizi, Christopher S. Kiper, and Raymond White (collectively, the "Investor Group").

Pursuant to the Investors Agreement, effective February 12, 2016, the Board agreed to increase the size of the Board from eight to nine members and appoint Mr. Vizi to the Board for a term expiring at the 2016 Annual Meeting. Additionally, under the terms of the Investors Agreement, the Board agreed, among other matters, to (i) appoint Mr. Vizi to the Compensation and Nomination and Governance Committees of the Board, (ii) nominate Mr. Vizi for election to the Board at the 2016 Annual Meeting and (iii) not increase the size of the Board beyond nine members without the consent of Mr. Vizi for the period commencing on the date of the Agreement and ending ten (10) days prior to the expiration of the advance notice period for the submission by shareholders of director nominations for consideration at the Company's 2017 Annual Meeting of Shareholders (the "Standstill Period").

The Board nominated the foregoing nominees based upon the recommendation of the Nomination and Governance Committee and, as to Mr. Vizi, pursuant to the terms of the Investors Agreement. The nominees have expressed their willingness to serve as directors, if elected. However, should any of the nominees be unavailable for election, the proxies (except for proxies that withhold authority to vote for directors) will be voted for such substitute nominee or nominees as may be chosen by the Board, or the number of directors may be reduced by appropriate action of the Board.

**The Board of Directors recommends that you vote "FOR" each of the foregoing nominees.**

PROPOSAL NO. 2 - RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Ernst & Young has served as the Company's independent registered public accounting firm since 1990 and has been appointed by the Audit Committee of the Board as the Company's independent registered public accountants for the fiscal year ending December 31, 2016. Although action by the shareholders in this matter is not required, the Board is seeking shareholder ratification of this appointment in light of the important role played by the independent registered public accounting firm.

If the shareholders fail to ratify the selection, the Audit Committee will consider whether to retain Ernst & Young going forward. Even if the appointment is ratified, the Audit Committee, in its discretion, may direct the appointment of a different firm at any time during the year if the committee determines that such a change would be in the best interests of the Company and its shareholders.

**The Board of Directors recommends that you vote “FOR” ratification of Ernst & Young LLP’s appointment as the Company’s independent registered public accounting firm for fiscal year 2016.**

### PROPOSAL NO. 3 - ADVISORY VOTE ON NAMED EXECUTIVE OFFICERS’ 2015 COMPENSATION

At the 2011 Annual Meeting, upon recommendation by the Board of Directors, shareholders voted to hold an advisory vote on executive compensation every year.

The following proposal gives our shareholders the opportunity to vote to approve or not approve, on an advisory basis, the compensation paid to our named executive officers in 2015, as described in this Proxy Statement, and is non-binding upon the Company, our Board, or the Compensation Committee of the Board. This vote is not intended to address any specific item of compensation, but rather the overall compensation of our executive officers and our compensation philosophy, policies, and practices, as disclosed under the “Executive Compensation” section of this Proxy Statement. We are providing this vote as required by Section 14A of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Accordingly, we are asking our shareholders to vote “FOR” the adoption of the following resolution:

**“RESOLVED**, that the compensation paid to the named executive officers of L. B. Foster Company (the “Company”), as disclosed pursuant to Item 402 of Regulation S-K, including the Compensation Discussion and Analysis, compensation tables, and narrative discussion in the Company’s Proxy Statement for the 2016 Annual Meeting of Shareholders under the heading entitled ‘Executive Compensation,’ is hereby approved.”

The Company’s compensation programs are centered on a pay-for-performance culture and are strongly aligned with the long-term interests of shareholders. The Company’s goal for its executive compensation program is to reward executives who provide leadership for, and contribute to, the Company’s financial success.

While we intend to carefully consider the voting results of this proposal, the final vote is advisory in nature and therefore not binding on the Company, our Board, or the Compensation Committee of the Board.

**The Board of Directors recommends that you vote “FOR” approval of the named executive officers’ compensation in 2015, as reported in this Proxy Statement.**

PROPOSAL NO. 4 - APPROVAL OF THE AMENDED AND RESTATED 2006 OMNIBUS INCENTIVE PLAN

Proposal No. 4 seeks shareholder approval of the 2006 Omnibus Incentive Plan, as amended and restated.

## **Background of the 2006 Omnibus Incentive Plan**

The Board is requesting that the Company's shareholders vote in favor of amending, restating and extending the term of the 2006 Omnibus Incentive Plan (the "Plan"). The Plan was approved by shareholders on May 24, 2006 and again on May 18, 2011, and currently is scheduled to terminate on May 17, 2021. We are submitting the Plan for shareholder approval at the Annual Meeting in order to, among other things:

Increase the maximum aggregate number of shares of Company common stock that will be available for issuance under the Plan, from 900,000 shares of common stock to 1,270,000 shares of common stock;

Preserve the Company's ability to deduct compensation earned by certain executives as qualified performance-based compensation under Section 162(m) of the Internal Revenue Code of 1986, as amended (the "Code") (and approve higher limits applicable to such awards as described below);

Include additional types of awards that may be granted under the Plan, including incentive stock options and stock appreciation rights ("SARs");

Clarify the circumstances under which shares will and will not be added back to the pool of shares available for issuance under the Plan;

- Clarify the authority of the Compensation Committee of the Board (the "Committee") with respect to the Plan;

Add one-year minimum vesting schedules, with limited exceptions, applicable to restricted stock, restricted stock units, and performance awards that may be granted under the Plan;

Expand the list of performance metrics that may be used in connection with the grant of performance awards intended to comply with Section 162(m) of the Code;

Provide that, if dividend equivalent rights are granted in connection with performance awards, the payment of such rights will be subject to the attainment of the performance goals applicable to the award;

Add a cap on the dollar amount of any award(s) specifically granted under the Plan to a non-employee director of \$300,000 for any fiscal year of the Company;

Edgar Filing: FOSTER L B CO - Form DEF 14A

Provide for a recoupment provision that makes clear that awards granted under the Plan may be subject to clawback as a result of applicable law, government regulation, stock exchange listing requirements or Company policy; and

Add administrative provisions which clarify that awards may be granted to employees in foreign jurisdictions and that the Committee may establish deferred compensation arrangements relating to awards granted under the Plan.

7

The Plan is administered by the Committee, which has the full and exclusive authority to interpret, construe and administer the Plan, including, among other matters, to: (i) adopt or establish and amend such rules, regulations, agreements, guidelines, procedures, forms, and instruments as may be necessary or advisable for the administration and operation of the Plan; (ii) correct any defect, supply any omission or reconcile any inconsistency in the Plan or in any award in the manner and to the extent it deems desirable; (iii) select the persons to be granted awards under the Plan; (iv) grant and determine the terms, conditions, form and size of awards to be made to each person selected, including clawback or other recoupment provisions applicable to awards granted thereunder; (v) determine the time when awards are to be made and any conditions which must be satisfied before an award is made; (vi) establish objectives, conditions and performance goals for earning awards; (vii) determine the terms of each award agreement and any amendments or modifications thereof; (viii) determine whether the conditions for earning an award have been met and whether an award will be paid at the end of the performance period; (ix) determine if and when an award may be deferred; (x) determine whether the amount or payment of an award should be reduced or eliminated; (xi) determine the guidelines and/or procedures for the payment or exercise of awards; and (xii) determine whether to accelerate vesting provisions applicable to awards. The Committee's decisions will be final, conclusive and binding with respect to the Plan and any award made under the Plan.

If the Company's shareholders do not approve the Plan, the Plan will remain as currently in effect; however, the Committee will not be able to grant awards of qualified performance-based compensation that are exempt from the \$1 million deduction limitation under Section 162(m) of the Code to certain executives under the Plan, as discussed more fully below under the heading "Approval of the Plan for Purposes of Section 162(m) of the Code."

#### Addition of 370,000 Shares to the Plan from Prior Authorized Amount

The Committee's independent compensation consultant, Pay Governance LLC, provided assistance with preparing the Plan. Based on an analysis of leading proxy advisory firms' policies on equity-based compensation plans, our historical share usage under the Plan, our anticipated share usage under the Plan taking account of our current stock price, and the importance of long-term incentives in supporting the key objectives of the Company's equity compensation program, management recommended, and the Board approved, among other changes to the Plan, the proposed increase of 370,000 shares (from the prior authorized amount of 900,000) available for issuance under the Plan, which represented approximately 3.6% of our outstanding common stock as of March 23, 2016. This increase in the number of shares available for issuance under the Plan would have had a value of approximately \$5,942,200 based on the closing market price of the Company's common stock on that date (\$16.06 per share).

#### **Description of the Amended and Restated 2006 Omnibus Incentive Plan**

The following summary of the major features of the Plan is qualified in its entirety by reference to the complete text of the Plan, which is attached as Appendix A to this proxy statement.

Features of the Plan:

**No liberal share counting.** The Plan prohibits the reuse of shares issuable under the Plan that are (i) delivered in payment of the exercise price of an option or base price of a SAR or other exercise price of an award, (ii) delivered to or withheld by the Company to pay tax withholding obligations, (iii) purchased by the Company using proceeds from option exercises or (iv) not issued or delivered as a result of a net settlement of an outstanding option or SAR.

**No repricing of stock options or SARs.** The Plan explicitly prohibits repricing of options and SARs without first obtaining shareholder approval.

**No discounted stock options or SARs.** All stock options and SARs must have an exercise or base price equal to or greater than the fair market value of the underlying common stock on the grant date.

**Awards are administered by an independent Committee.** The Plan will be administered by the Committee, or another committee designated by the Board, which is or will be comprised entirely of independent directors. See page 23 of this Proxy Statement for more information about the Committee.

**Awards subject to “clawback.”** All incentive awards under the Plan are subject to any law, regulation or Company policy that requires recoupment.

#### Purpose

The purpose of the Plan is to advance the interests of the Company and its shareholders and promote the Company’s long-term growth and financial success by providing equity and other financial incentives to key employees and directors of the Company. The Plan is designed to provide flexibility to enable us to attract and retain the services of these individuals, upon whose judgment, interest and special effort the successful conduct of our operations is largely dependent.

#### Eligibility

Any officer, employee, consultant, independent contractor or director of the Company or any of its subsidiaries is eligible to receive an award under the Plan. As of December 31, 2015, there were approximately 690 salaried, exempt employees of the Company and its subsidiaries eligible to participate in the Plan, of which 33 were participating, and eight non-employee directors of the Company participating in the Plan. The selection of participants and the nature and size of the awards is subject to the Committee’s discretion.

#### Plan Reserve

The number of shares reserved under the Plan will be depleted by one share for each share subject to a stock-settled award. Fractional shares will not be issued under the Plan.

Except as otherwise provided in the Plan, shares may be re-credited to the plan reserve if (i) an award lapses, expires, terminates, or is cancelled without the underlying shares being issued (or a portion thereof), (ii) it is determined during or at the conclusion of the term of an award that all or some shares underlying the award may not be issued because the conditions for such issuance failed to be met, (iii) any award (or a portion thereof) is settled in cash, (iv) shares subject to an award are forfeited, or (v) shares are issued pursuant to an award but are subsequently reacquired by the Company (except with respect to incentive stock options).

#### Individual Award Limits

The Plan provides for limits on certain types of awards that may be granted under the Plan to a participant in any one fiscal year. Under the Plan, for any fiscal year and subject to adjustment in accordance with the terms of the Plan, no participant may be granted (i) an award of stock options or

SARs for more than 300,000 shares, (ii) a performance award (payable in stock) intended to be performance-based compensation under Section 162(m) of the Code of more than 150,000 shares (measured on a target award level on the grant date), or (iii) a performance award (payable in cash) intended to be performance-based compensation under Section 162(m) of the Code of more than \$5,000,000 (measured on a target award level on the grant date). Additionally, and subject to adjustment in accordance with the terms of the Plan, no non-employee director may be granted, in any one fiscal year, awards specifically granted under the Plan with an aggregate maximum value, calculated as of their respective grant dates, of more than \$300,000.

### Awards

The following types of awards may be granted under the Plan:

*Stock Options.* Stock options may be nonqualified stock options or incentive stock options that comply with Section 422 of the Code. Only an employee of the Company may receive incentive stock options. The Committee determines all terms and conditions of stock options, including the number of shares subject to the option and the applicable vesting period. Except as otherwise provided in an award agreement or the Plan, options granted to employees will be exercisable only after twelve months have elapsed from the grant date and shall vest ratably in one-fourth increments on each of the first, second, third, and fourth anniversaries of the date of grant. The exercise price per share may not be less than the fair market value of a share subject to the option on the grant date.

Except as otherwise provided in the Plan or in the applicable award agreement, if the employment or other service of a participant, other than a non-employee director, terminates for any reason other than death, disability, or retirement, all stock options held by the participant will expire and may not thereafter be exercised.

Unless the award agreement provides otherwise, if the employment or other service of a participant, other than as a non-employee director, terminates, other than due to a “termination for cause” (as defined in the Plan), the participant may exercise all unexercised and vested stock options within 30 days of such termination; except as so exercised, the stock option will expire at the end of such period. Any options in which such participant is not vested at the time of termination will be forfeited. In no event, however, may any stock option be exercised after the expiration of ten years from the grant date of such stock option.

Except as otherwise provided in the award agreement, a non-employee director whose service is terminated will be entitled to exercise such non-employee director’s stock options, to the extent vested as of the date of such termination, until the expiration of the full term of the stock option, unless the non-employee director has been terminated for cause. In the event that a non-employee director is terminated for cause, all stock options held by the director will terminate immediately and may not thereafter be exercised.

Except as otherwise provided in the Plan or an award agreement, during the twelve month period following a participant's death, any or all of the unexercised and vested stock options that a participant was entitled to exercise immediately prior to death may be exercised by the participant's personal representative. Any stock options in which a participant is not vested at the time of death will be forfeited. In no event, however, may any such options be exercised after the expiration of ten years from the date of grant of such options.

Except as otherwise provided in the Plan or an award agreement, if a participant retires, or suffers a disability, at a time when the participant is entitled to exercise a stock option, then at any time or times

within three years after such termination of service because of retirement or disability, the participant may exercise the option as to all or any of the shares that the participant was entitled to purchase under the option immediately prior to such termination; except as so exercised, the stock option will expire at the end of such period. In no event, however, may any option be exercised after the expiration of ten years from the date of grant of such option.

*Restricted Stock and Restricted Stock Units (“RSUs”).* An award of restricted stock is an award of shares of common stock that may not be sold or otherwise disposed of during a restricted period as determined by the Committee. An award of RSUs is an award of the right to receive a share of common stock or cash equal to a share of common stock on the payment date and after the expiration of a restricted period as determined by the Committee. Restricted stock awards and RSUs granted to employees will have a service period of no less than twelve months (subject to special vesting terms); provided, however, that this limitation will not: (i) adversely affect a participant’s rights under another plan or agreement or (ii) apply to awards granted in exchange for the surrender of, or substitution of, another company’s awards to its employees and directors. The Committee may also impose additional restrictions on an award of restricted stock or RSUs, including, but not limited to, attainment of certain performance goals during the restricted period. Restricted stock may have voting and dividend rights, and RSUs may have associated dividend equivalent rights.

*Performance Grants.* Performance grants will consist of a right that is (i) denominated in cash, stock or any other form of award issuable under the Plan (or any combination thereof), (ii) valued, as determined by the Committee, in accordance with the achievement of such performance goals during such performance periods as the Committee will establish and (iii) payable at such time and in such form as the Committee will determine. Unless otherwise determined by the Committee, any such performance grant will be evidenced by an award agreement containing the terms of the award, including, but not limited to, the performance criteria and such terms and conditions as may be determined, from time to time, by the Committee, in each case not inconsistent with the Plan. In relation to any performance grant, the performance period may not be less than twelve months for which performance is being measured.

Section 162(m) of the Code limits the federal income tax deductibility of compensation in excess of \$1,000,000 per year paid to certain employees (generally the chief executive officer and next three highest paid executive officers other than the chief financial officer), unless the compensation is “qualified performance-based compensation” within the meaning of Section 162(m). Under the Plan, awards may, but need not, include performance criteria that are intended to satisfy Section 162(m). To the extent that awards are intended to qualify as “qualified performance-based awards” under Section 162(m), the performance criteria will relate to one or more of the following performance criteria (and subject to such modifications as specified by the Committee): cash flow; cash flow from operations; earnings (including, but not limited to, earnings before interest, taxes, depreciation and amortization or some variation thereof); earnings per share, diluted or basic; earnings per share from continuing operations; net asset turnover; inventory turnover; days sales outstanding on receivables; capital expenditures; debt