

## STATEMENT OF FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND STATEMENT OF OVERRIDING CONSIDERATIONS

### A. INTRODUCTION

The following findings of fact have been prepared pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City of Foster City City Council in connection with the Environmental Impact Report (EIR) prepared for the Foster City Housing and Safety Elements Update (the project), State Clearinghouse No. 2022010509. These CEQA findings are attached and incorporated by reference into each staff report, resolution and ordinance associated with approval of the project. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

### B. BACKGROUND

The project is being proposed by the City of Foster City (City) to comply with California Government Code Sections 65580-65589.9, which requires local jurisdictions to update the Housing Element of their General Plan every eight years to adequately plan for the regional housing needs of residents of all income groups. The project includes the following elements:

1. **Housing Element.** Adoption and implementation of the City's 6<sup>th</sup> Cycle Housing Element Update (2023-2031), including but not limited to the adoption and implementation of General Plan and Zoning Amendments, to accommodate the City's Regional Housing Needs Allocation (RHNA) of 1,896 new housing units within the city. This component is referred to as the Housing Element throughout this EIR.<sup>1</sup>
2. **Safety Element.** Adoption and implementation of updates to the City's Safety Element. The Safety Element is currently combined with the City's Local Hazard Mitigation Plan (LHMP), adopted in 2016. The City adopted an updated LHMP in 2021 in coordination with the San Mateo County Multijurisdictional Local Hazard Mitigation Plan. The Safety Element portion of the Safety Element/LHMP document will become a standalone document as part of this

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<sup>1</sup> Note this Draft EIR analyzes the July 2022 Draft Housing Element. Minor modifications of the housing site inventory, policies and programs prior to adoption may occur in response to public comments and direction from the Planning Commission and City Council. Final housing sites inventory and policies language will be included in the Final EIR.

update. The Safety Element identifies public safety risks and creates a unique set of goals, policies, and implementation actions that address these risks. This component is referred to as the Safety Element throughout this EIR.

For purposes of this EIR, these actions are together considered a “project” under CEQA regulations. The City of Foster City published and circulated a Notice of Preparation (NOP) that briefly described the project and the environmental topics that would be evaluated in the Draft EIR on January 26, 2022. The public comment period for the scope of this EIR was from January 26, 2022, to February 25, 2022. The NOP was posted on the City’s website and sent to the State Clearinghouse, applicable responsible agencies, trustee agencies, and interested parties as required by the California Environmental Quality Act (CEQA). A project scoping session was held before the Planning Commission on February 17, 2022, and no verbal public comments were received during the scoping session. Written comments received on the NOP were considered during the preparation of the Draft EIR.

The Draft EIR was published on February 16, 2023, and distributed to applicable local and State agencies. Copies of the Notice of Availability of the Draft EIR (NOA) were mailed to all individuals previously requesting to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP.

The 45-day public comment period for the Draft EIR began on February 16, 2023, and ended on April 2, 2023. One public hearing was held regarding the Draft EIR during the 45-day public comment period: the Planning Commission on March 16, 2023. Five planning commissioners provided verbal comments during the hearing. No verbal public comments were received during the public hearing. Written comments were received from fifteen individuals. Written responses to all the comments received regarding the adequacy of the Draft EIR are provided in *Chapter III, Comments and Responses*, of this document.

The Final EIR includes the Draft EIR prepared by Urban Planning Partners, Inc., dated February 2023, and the Response to Comments document (RTC) prepared by Urban Planning Partners, dated April 2023. The RTC document provides a response to comments on the Draft EIR made by agencies and individuals, and includes text revisions to the Draft EIR to clarify or revise information in the Draft EIR.

With this background in mind, the City Council of the City of Foster City (Council) makes the following findings concerning the environmental impacts of the project, the feasibility of the project alternatives, and the benefits of the project that override the significant and unavoidable impacts of the project.

## C. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

The Final EIR identifies certain potentially significant effects that could result from the project. The Final EIR analyzed the project's potential environmental impacts to:

- Land Use and Planning
- Aesthetics
- Traffic and Transportation
- Air Quality
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Noise and Vibration
- Population and Housing
- Public Services, Utilities, and Recreation

The Final EIR identified significant environmental effects in the areas of: Aesthetics; Traffic and Transportation; Air Quality; Greenhouse Gas Emissions; Noise and Vibration; Public Services, Utilities, and Recreation. These topics are discussed below. Mitigation measures were identified and would be imposed as conditions of approval on the project. The City finds that the inclusion of these mitigation measures as part of project approval will reduce all but three (3) significant impacts to levels that are less than significant.

The Council finds that changes or alterations are required in, or incorporated into, the project which avoid or substantially lessen certain significant environmental effects identified in the Final EIR. The Council further finds that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives that are not required in, or incorporated into, the project.

As described in greater detail below, after implementation of all feasible mitigation measures, the project could result in the following significant and unavoidable impacts, which will be overridden by the specific considerations that are described in this document's conclusion (see Section E):

- **Impact TRANS-1:** Implementation of the Housing and Safety Elements and associated zoning amendments components of the project that are not 100 percent affordable projects could generate home-based VMT per resident of 12.8 and that is greater than 85 percent of the 2020 Bay Area regional average home-based VMT per resident.
- **Impact SVCS-1:** There are not sufficient water supplies available to serve the project and reasonably foreseeable future development one dry year and multiple dry years within a 20-year projection.

- **Impact AES-1:** Development under the project located south of East Hillsdale Boulevard, within established residential neighborhoods, could have a significant adverse impact on the visual quality of the city.

## 1. Land Use

The Final EIR found that implementation of the project would not result in any significant land use impacts.

## 2. Traffic and Transportation

### a. Vehicle Miles Traveled (VMT) Analysis

**Impact TRANS-1:** Implementation of the Housing and Safety Elements and associated zoning amendments components of the project that are not 100 percent affordable projects could generate home-based VMT per resident of 12.8 and that is greater than 85 percent of the 2020 Bay Area regional average home-based VMT per resident. (S)

Mitigation Measure TRANS-1: Implement VMT Reduction Measures. Individual housing project development proposals that do not screen out from a VMT impact analysis shall provide a quantitative VMT analysis using the methods applied in this EIR, with modifications if appropriate based on future changes to City of Foster City practices and OPR VMT analysis methodology guidelines. Projects which result in a significant impact shall include TDM measures and physical measures to reduce VMT, including but not limited to the measures below; some of which have been identified as potentially VMT-reducing in the CAPCOA Handbook. Potential VMT reduction estimates are included below, but detailed requirements, calculation steps, and limitations are described in the CAPCOA Handbook.

- Increase building density. Effectiveness: up to a 30 percent reduction in GHG from VMT for residential projects per the CAPCOA Handbook.
- Integrate affordable and below-market rate housing: up to a 28.6 percent reduction in GHG from VMT for residential projects per the CAPCOA Handbook.
- Reduce parking provided. Effectiveness: up to a 13.7 percent reduction in GHG from VMT for residential projects per the CAPCOA Handbook.
- Unbundle parking costs (i.e., sell or lease parking separately from the housing unit). Effectiveness: up to 15.7 percent reduction in GHG from VMT per the CAPCOA Handbook, although the effectiveness is lower in suburban settings.
- Provide car-sharing, bike-sharing, or scooter-sharing programs. Effectiveness: 0.15 – 0.18 percent reduction in GHG from VMT for car share, 0.02 – 0.06 percent for bike share,

and 0.07 percent for scooter share, per the CAPCOA Handbook. The higher car share and bike share values are for electric car and bike share programs.

- Subsidize transit passes for residents of affordable housing. Effectiveness: up to 5.5 percent reduction in GHG from VMT per the CAPCOA Handbook.
- Other measures not listed in CAPCOA but are proven to be effective means of reducing the amount of VMT generated by residents include increasing the mix of uses by adding retail or services within a site or within convenient walking distance.<sup>2</sup>

Residential development projects located in the lower VMT areas (generally in Central Foster City) would likely have a less-than-significant impact with the implementation of the on-site VMT reduction measures noted above. Residential development projects located within the areas with higher VMT on the periphery of Foster City may have a significant impact even after implementation of these measures given the longer trip lengths needed to reach services and jobs.

In addition to the on-site measures noted above, individual housing projects that are above the VMT threshold could potentially contribute to future VMT mitigation fee programs, banks, or exchanges. A VMT mitigation program would fund transportation projects and programs that lead to a reduction in VMT, including pedestrian and bicycle projects connecting to transit, schools, and other destinations. No local or regional VMT mitigation programs currently exist, however, should such a program be implemented, development projects could potentially pay into a fee program or purchase mitigation credits to achieve needed VMT mitigation instead of, or in addition to, on-site TDM measures.

Because the uncertainty relating to the feasibility of on-site TDM measures and the implementation process for individual development projects in diverse project settings, the timing that it will take to implement those measures, and the lack of an off-site mitigation option, the effectiveness of reducing an individual project's VMT impact to a less than significant level cannot be determined as part of this EIR. As a result, this impact is identified conservatively as significant and unavoidable with mitigation given the possibility that some projects may not be able to identify and implement measures to reduce the VMT impact to a less-than-significant level. (SU)

**Finding:** The EIR identified Mitigation Measure TRANS-1 as a potentially viable measure to reduce VMT impacts to a less-than-significant level. The Mitigation Measure TRANS-1 requires

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<sup>2</sup> American Planning Association PAS Memo, 2013. "Getting Trip Generation Right: Eliminating the Bias Against Mixed Use Development" by Jerry Walters, Brian Bochner, and Reid Ewing, May.

individual housing project development proposals that do not screen out from a VMT impact analysis to provide a quantitative VMT analysis and implement TDM measures and physical measures to reduce VMT when there is a significant VMT impact, which may not reduce impacts to a less-than-significant level in higher VMT areas. Mitigation Measure TRANS-1 suggests contributions to future VMT mitigation fee programs, banks, or exchanges as another option to lower VMT, which are not established at this time. Because of the lack of an off-site mitigation option, the unknown feasibility of on-site TDM measures and the implementation process for individual development projects in diverse project settings, and the timing that it will take to implement those measures, this impact is deemed significant and unavoidable even with mitigation measure incorporated. The Council further finds that there are no other feasible mitigation measures that would reduce this impact to a less-than-significant level. Therefore, the impact would remain significant and unavoidable. Refer to Section D. Alternatives to the Project, for a discussion of why there are no feasible alternatives to the project that would avoid this impact. However, this significant unavoidable impact is deemed acceptable due to other benefits of the project outlined in Section E. Statement of Overriding Considerations.

The following SCOAs related to transportation would apply to the project.

**SCOA 1.9:** Before commencing any work in the City's right-of-way (including trenching of complete streets), the applicant shall obtain an encroachment permit, posting the required bonds and insurance. The Engineering Division may require that trenchless methods be used for crossings and connections under streets.

**SCOA 1.12:** Prior to opening, details of sales office and/or model homes, including special landscaping, signing, parking and lighting shall be approved by staff.

**SCOA 2.20:** Prior to issuance of a building permit, the applicant shall contact and discuss with SamTrans the desirability for and location of bus turnouts for SamTrans buses, as well as providing see-through, covered bus shelters to serve the users of the development. The applicant shall respond in writing to the City with a letter from SamTrans indicating that improvements are not necessary or that the proposed improvements are satisfactory to SamTrans prior to issuance of a building permit.

**SCOA 2.21:** The timing of the installation of the proposed bus system improvements shall be established by the City, in coordination with SamTrans.

**SCOA 8.15:** Prior to issuance of a Building Permit, the applicant shall design for general public use, bicycle trails throughout the development with provisions for bicycle storage facilities to the satisfaction of the Engineering Division. Bike trails shall be constructed according to plan.

**SCOA 8.16:** Prior to issuance of a Building Permit, the applicant shall design a comprehensive pedestrian walkway system throughout the development to the satisfaction of the City and in compliance with the General Plan. The pedestrian walkway system shall be constructed according to plan.

**SCOA 9.9:** The applicant shall require all contractors to obtain and submit to City any transportation permits required by Caltrans. Contractors are further required to obtain a transportation permit from City for hauling on local streets. All vehicles hauling materials to the project site that exceed 12,000 pounds gross weight shall follow established truck route streets to the closest point of the job site unless directed otherwise by the Engineering Division.

**SCOA 10.24:** Prior to occupancy, all apartment buildings or condominium complexes shall be required to provide parking stalls designated and signed for visitor parking.

**SCOA 11.05:** Truck arrival and unloading operations shall be conducted in accordance with all applicable City Ordinance requirements. If noise associated with truck arrival or unloading operations becomes a problem, all future site lessees, operators and/or owners shall work with the City to develop a plan to minimize noise, including requiring an adjustment of truck arrival and/or unloading times.

**SCOA 11.07:** The current and future owners shall be responsible for implementing the Transportation Demand Management (TDM) Program required by the City/County Association of Governments on file with the Community Development Department and attached as Exhibit B. The owner or its successor in interest shall file an annual report by January 31 of each year with the Foster City Community Development Department documenting efforts undertaken and results achieved in the previous year pursuant to the TDM program.

**SCOA 11.16:** The applicant, HOA, or any future owner shall provide and conduct regular maintenance of the site in order to preserve all loading zones, fire lanes, and restricted parking zones as readily visible and identifiable.

### **3. Air Quality**

#### **a. Emissions of Criteria Air Pollutants**

**Impact AIR-1:** Construction of residential development under the project would generate criteria air pollutant emissions that could potentially affect regional air quality. (S)

Mitigation Measure AIR-1: Residential Construction Controls for Criteria Air Pollutants. For construction of residential projects that exceed the Bay Area Air Quality Management District's (BAAQMD's) most recently adopted screening criteria (currently 114 single-family units or 240 multi-family units), the project applicant shall retain a qualified air quality consultant to identify measures to reduce the project's criteria air pollutant and precursor emissions below the BAAQMD's recommended thresholds of significance. Emission reduction measures may include, but are not limited to, the use of off-road equipment with engines that meet the Environmental Protection Agency's Tier 4 emission standards, engines retrofitted with the most effective Verified Diesel Emissions Control Strategy (VDECS) certified by the California Air Resources Board (CARB), or other off-road equipment that demonstrate equivalent emission reduction meeting the EPA's standards. Quantified emissions and identified reduction measures shall be submitted to the city (and the Air District if specifically requested) for review and approval prior to the issuance of building permits and the approved criteria air pollutant reduction measures shall be implemented during construction.

In addition, the project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified criteria air pollutant reduction measures (if any). The Emissions Plan shall be submitted to the City (and BAAQMD if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. (LTS)

General Plan FEIR Mitigation Measure 3.1-2. Update the Foster City General Plan Conservation Element to include the following policies and action items. The following policies and action items shall apply during environmental review of individual projects effective immediately.

- Policy: Minimize exposure of sensitive receptors to concentrations of air pollutant emissions and toxic air contaminants.



- Policy: Require discretionary projects involving sensitive receptors such as children, the elderly, or people with illnesses that are proposed within 500 feet of the State Route 92 corridor to include an analysis of mobile source toxic air contaminant health risks. The analysis, if necessary, shall identify feasible mitigation measures to reduce health risks to acceptable levels.
- Action: Review all new industrial and commercial development projects for potential air quality impacts to residences and other sensitive receptors. The City shall ensure that mitigation measures and best management practices are implemented to reduce significant emissions of criteria pollutants.
- Action: Review development, infrastructure, and planning projects for consistency with Bay Area Air Quality Management District (BAAQMD) requirements during the California Environmental Quality Act (CEQA) review process. Require project applicants to prepare air quality analyses to address BAAQMD and General Plan requirements, which include analysis and identification of:
  1. Air pollutant emissions associated with the project during construction, project operation, and cumulative conditions.
  2. Potential exposure of sensitive receptors to toxic air contaminants.
  3. Significant air quality impacts associated with the project for construction, project operation, and cumulative conditions.
  4. Mitigation measures to reduce significant impacts to less than significant or the maximum extent feasible where impacts cannot be mitigated to less than significant.

**Impact AIR-2:** Operation of residential development under the project would generate criteria air pollutant emissions that could potentially affect regional air quality. (S)

Mitigation Measure AIR-2: Residential Operation Controls for Criteria Air Pollutants. For operation of residential projects that exceed the Bay Area Air Quality Management District's (BAAQMD's) most recently adopted screening criteria (currently 325 single-family units or 451 multi-family units), the project applicant shall retain a qualified air quality consultant to identify measures to reduce the project's criteria air pollutant and precursor emissions below the BAAQMD's recommended thresholds of significance. Emission reduction measures may include, but are not limited to, the following:

- Implementation of a Transportation and Parking Demand Management program to reduce vehicle trips.

- Compliance with off-street electric vehicle (EV) requirements in the most recently adopted version of CALGreen Tier 2 to reduce vehicle emissions.
- Exclusion of natural gas appliances or natural gas plumbing.

Quantified emissions and identified reduction measures shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits and the approved criteria air pollutant reduction measures shall be implemented during construction. (LTS)

General Plan FEIR Mitigation Measure 3.1-2. Update the Foster City General Plan Conservation Element to include the following policies and action items. The following policies and action items shall apply during environmental review of individual projects effective immediately.

- Policy: Minimize exposure of sensitive receptors to concentrations of air pollutant emissions and toxic air contaminants.
- Policy: Require discretionary projects involving sensitive receptors such as children, the elderly, or people with illnesses that are proposed within 500 feet of the State Route 92 corridor to include an analysis of mobile source toxic air contaminant health risks. The analysis, if necessary, shall identify feasible mitigation measures to reduce health risks to acceptable levels.
- Action: Review all new industrial and commercial development projects for potential air quality impacts to residences and other sensitive receptors. The City shall ensure that mitigation measures and best management practices are implemented to reduce significant emissions of criteria pollutants.
- Action: Review development, infrastructure, and planning projects for consistency with Bay Area Air Quality Management District (BAAQMD) requirements during the California Environmental Quality Act (CEQA) review process. Require project applicants to prepare air quality analyses to address BAAQMD and General Plan requirements, which include analysis and identification of:
  5. Air pollutant emissions associated with the project during construction, project operation, and cumulative conditions.
  6. Potential exposure of sensitive receptors to toxic air contaminants.
  7. Significant air quality impacts associated with the project for construction, project operation, and cumulative conditions.

8. Mitigation measures to reduce significant impacts to less than significant or the maximum extent feasible where impacts cannot be mitigated to less than significant.

**Finding:** Mitigation Measures AIR-1 and AIR 2 are feasible and applicable to the project and, in combination with the existing Mitigation Measure 3.1-2, would ensure the project does not result in a cumulatively considerable net increase in criteria air pollutants for which the region is in nonattainment and would reduce the project-level construction impacts to a less-than-significant level (see pages 142 to 145 of the Draft EIR).

**b. Exposure to Sensitive Receptors to Toxic Air Contaminants during Construction.**

**Impact AIR-3:** Construction of residential development under the project could expose sensitive receptors to substantial concentrations of TACs and/or PM<sub>2.5</sub>. (S)

Mitigation Measure AIR-3a: Residential Construction Controls for Diesel Particulate Matter.

For construction of residential projects with a construction duration greater than 6 months that are located in an area defined as needing “Best Practices” or “Further Study” on the BAAQMD’s Planning Healthy Places Map (<https://www.baaqmd.gov/plans-and-climate/planning-healthy-places>), the project applicant shall apply **one** of the following measures:

- The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with current guidance from the Office of Environmental Health Hazard Assessment to determine the health risks to sensitive receptors exposed to diesel particulate matter (DPM) from project construction emissions. The HRA shall be submitted to the City (and BAAQMD if specifically requested) for review and approval. If the HRA concludes that the health risks are at or below acceptable levels, then DPM reduction measures are not required. If the HRA concludes that the health risks exceed acceptable levels, DPM reduction measures shall be identified to reduce the health risks to acceptable levels. Identified DPM reduction measures shall be submitted to the City for review and approval prior to the issuance of building permits and the approved DPM reduction measures shall be implemented during construction.
- All off-road diesel equipment shall be equipped with the most effective VDECS available for the engine type (Tier 4 engines automatically meet this requirement) as certified by CARB. The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, the project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified DPM reduction measures (if any). The Emissions Plan shall be submitted to the City (and BAAQMD if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract.

Mitigation Measure AIR-3b: Residential Emergency Generators. Require all emergency generators for new residential development projects (if needed) to use best available control technology for air pollutant emissions, such as using engines that meet the Environmental Protection Agency's Tier 4 Final emission standards or are battery powered. (LTS)

General Plan FEIR Mitigation Measure 3.1-2. Update the Foster City General Plan Conservation Element to include the following policies and action items. The following policies and action items shall apply during environmental review of individual projects effective immediately.

- Policy: Minimize exposure of sensitive receptors to concentrations of air pollutant emissions and toxic air contaminants.
- Policy: Require discretionary projects involving sensitive receptors such as children, the elderly, or people with illnesses that are proposed within 500 feet of the State Route 92 corridor to include an analysis of mobile source toxic air contaminant health risks. The analysis, if necessary, shall identify feasible mitigation measures to reduce health risks to acceptable levels.
- Action: Review all new industrial and commercial development projects for potential air quality impacts to residences and other sensitive receptors. The City shall ensure that mitigation measures and best management practices are implemented to reduce significant emissions of criteria pollutants.

- **Action:** Review development, infrastructure, and planning projects for consistency with Bay Area Air Quality Management District (BAAQMD) requirements during the California Environmental Quality Act (CEQA) review process. Require project applicants to prepare air quality analyses to address BAAQMD and General Plan requirements, which include analysis and identification of:
  9. Air pollutant emissions associated with the project during construction, project operation, and cumulative conditions.
  10. Potential exposure of sensitive receptors to toxic air contaminants.
  11. Significant air quality impacts associated with the project for construction, project operation, and cumulative conditions.
  12. Mitigation measures to reduce significant impacts to less than significant or the maximum extent feasible where impacts cannot be mitigated to less than significant.

**Finding:** Mitigation Measures AIR-3a and AIR-3b are feasible and applicable to the project and, in combination with the existing Mitigation Measure 3.1-2, would reduce project impacts on existing sensitive receptors exposed to substantial concentrations of TACs and PM<sub>2.5</sub> from project construction to a less-than-significant level (see pages 146 to 147 of the Draft EIR).

The following SCOAs and General Plan FEIR mitigation measures related to air quality would apply to the project:

**SCOA 9.5:** The following controls shall be implemented at all construction sites within the project to control dust and/or mud production and fugitive dust.

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing sensitive land uses shall be kept damp at all times, or shall be treated with nontoxic stabilizers to control dust;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply (nontoxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; and
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible.

- Water trucks shall be present and in use at the construction site.
- All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City in order to ensure proper control of blowing dust for the duration of the project.
- Watering on public streets shall not occur.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations (CCR). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer.
- Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 7 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust.
- All public streets and medians soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the City.
- Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

#### 4. Greenhouse Gas Emissions

The Final EIR found that no significant greenhouse gas emissions impacts would occur with implementation of the following City SCOAs.

**SCOA 6.6:** The applicant shall provide a letter describing the sustainable practices that are included in the project and referencing the sheets in the building permit drawings that demonstrate the inclusion of the sustainable practices for review and approval by the Community Development Director.

**Finding:** Foster City has adopted SCOA 6.6 for large new and redevelopment projects. This measure is feasible and applicable to the project and would reduce greenhouse gas impacts to a less-than-significant level. The project would be consistent with local measures identified in the City of Foster City's Climate Action Plan (CAP) to reduce greenhouse gas emissions and is consistent with the City's CAP.

## 5. Hazards and Hazardous Materials

The Final EIR found that no significant hazards and hazardous materials impacts would occur with implementation of the following City SCOAs.

**SCOA 2.18:** The applicant shall prepare a project-specific Construction Risk Management Plan (CRMP) to protect construction workers, the general public, and the environment from subsurface hazardous materials previously identified and to address the possibility of encountering unknown contamination or hazards in the subsurface. The CRMP shall:

- Provide procedures for evaluating, handling, storing, testing and disposing of soil and groundwater during project excavation and dewatering activities, respectively;
- Require the preparation of a project specific Health and Safety Plan that identifies hazardous materials present, describes required health and safety provisions and training for all workers potentially exposed to hazardous materials in accordance with state and federal worker safety regulations, and designates the personnel responsible for Health and Safety Plan implementation;
- Require the preparation of a Contingency Plan that shall be applied should previously unknown hazardous materials be encountered during construction activities. The Contingency Plan shall be developed by the contractor(s), with the approval of the City and/or appropriate regulatory agency, prior to demolition or issuance of the first building permit. The Contingency Plan shall include provisions that require collection of soil and/or groundwater samples in the newly discovered affected area by a qualified environmental professional prior to further work, as appropriate. The samples shall be submitted for laboratory analysis by a state-certified laboratory under chain-of-custody procedures. The analytical methods shall be selected by the environmental professional. The analytical results of the sampling shall be reviewed by the qualified environmental professional and submitted to the appropriate regulatory agency, if appropriate. The environmental professional shall provide recommendations, as applicable, regarding soil/waste management, worker health and safety training, and regulatory agency notifications, in accordance with local, state, and federal requirements. Work shall not

resume in the area(s) affected until these recommendations have been implemented under the oversight of the City of regulatory agency, as appropriate; and

- Designate personnel responsible for implementation of the CRMP. The CRMP shall be submitted to the Fire Department for review and approval prior to construction activities.
- Emergency Preparedness and Response Procedures shall be developed by the contractor(s) for emergency notification in the event of an accidental spill or other hazardous materials emergency during project site preparation and development activities. These Procedures shall include evacuation procedures, spill containment procedures, required personal protective equipment, as appropriate, in responding to the emergency. The contractor(s) shall submit these procedures to the City prior to demolition or development activities.

**SCOA 2.19:** The contractor shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous materials or materials requiring off-site disposal would be generated. The Plan shall include a description of analytical methods for characterizing wastes, handling methods required to minimize the potential for exposure, and shall establish procedures for the safe storage of contaminated materials, stockpiling of soils, and storage of dewatered groundwater. The required disposal method for contaminated materials (including any lead-based paint, asbestos, or other hazardous building materials requiring disposal, see SCOA 9.25, below), the approved disposal site, and specific routes used for transport of wastes to and from the project site shall be indicated. The Plan shall be prepared prior to demolition or development activities and submitted to the City.

**SCOA 2.22:** Prior to excavation or earth working activities, the applicant shall use reasonable means to determine the presence of soil and/or groundwater contamination associated with fill materials present on-site and potential for aerially-deposited lead in soil in proximity to SR 92. Those reasonable means may consist of soil and/or groundwater sampling, and/or conducting a Phase I ESA (for those areas for which a Phase I ESA has not been prepared) and, if necessary, a Phase II ESA in accordance with the most recent ASTM International Standard. A qualified environmental professional (e.g., Professional Geologist, Professional Engineer) shall complete these investigations. Where the results of the studies indicate that soil and/or groundwater contamination is present, required oversight from a regulatory agency shall be included (e.g., SMCEHD) and any necessary remediation shall be conducted. The findings of the investigation(s) shall be documented in a written report and shall be submitted to the City and, if required, to the regulatory oversight agency.



**SCOA 3.1:** Prior to issuance of a demolition permit for structures located on the project site, a lead-based paint, hazardous building materials survey (PCBs, mercury), and asbestos survey (for those structures not previously surveyed) shall be performed by a qualified environmental professional. Based on the findings of the survey, all loose and peeling lead-based paint, and identified asbestos hazards shall be abated by a certified contractor in accordance with local, state, and federal requirements (including the requirements of the BAAQMD, District Regulation 11, Rule 20) and requirements for worker health and safety.

**SCOA 3.2:** Within sixty (60) days following the completion of the demolition phase of a covered project, and again within sixty (60) days following the completion of the construction phase of a covered project, the contractor shall submit documentation to the Building Inspection Division that demonstrates compliance with Chapter 15.44 of the Foster City Municipal Code and the California Green Building Code. Documentation includes submission of a completed Final Compliance Report with corresponding recycling, salvage, and disposal receipts/tickets from the facilities, to demonstrate where the debris was recycled, salvaged, or disposed.

**SCOA 3.3:** Beginning July 1, 2019, applicants shall complete and submit the "PCB Screening Assessment Form" for any project requiring a demolition permit.

**SCOA 3.4:** Hazardous materials and wastes generated during demolition activities, such as fluorescent light tubes, mercury switches, lead based paint, asbestos containing materials, and PCB wastes, and subsurface hazardous building materials generated during grading and trenching activities, such as asbestos-cement piping, shall be managed and disposed of in accordance with the applicable universal waste and hazardous waste regulations. Federal and state construction worker health and safety regulations shall apply to the removal of hazardous building materials and demolition activities, and any required worker health and safety procedures shall be incorporated into the contractor's specifications for the project. Documentation of the surveys and abatement activities shall be provided to the City prior to the demolition of structures located at the project site.

**SCOA 6.15:** Upon determination by required 3<sup>rd</sup> party testing by a City approved consultant, that the erection of structures within the development results in decreased performance of the City's existing public safety communications system, the building owner shall submit plans to rectify the deficiencies. Decreases in the public safety communications system performances shall be deemed to include a loss of radio contact or other radio interference resulting in a significant reduction in the performance of the public safety communications system.

**SCOA 6.16:** Final development plans shall indicate that access to the buildings' roof area shall be granted to the City, if required, to install auxiliary transmitters and antennas.

**SCOA 9.13:** If the presence of hazardous materials is found on site, site remediation may be required by the applicable state or local regulatory agencies. Specific remedies would depend on the extent and magnitude of contamination and requirements of the regulatory agency(ies). Under the direction of the regulatory agency(ies) and the City, a Site Remediation Plan shall be prepared, as required, by the applicant. The Plan shall: 1) specify measures to be taken to protect workers and the public from exposure to the potential hazards and, 2) certify that the proposed remediation would protect the public health in accordance with local, state, and federal requirements, considering the land use proposed. Excavation and earth working activities associated with the proposed project shall not proceed until the Site Remediation Plan has been reviewed and approved by the regulatory oversight agency and is on file with the City.

**SCOA 9.14:** Engineering fill brought on-site shall be demonstrated, by analytical testing, not to pose an unacceptable risk to human health or the environment. Threshold criteria for acceptance of engineered fill shall be selected based on screening levels and protocols developed by regulatory agencies for protection of human health and leaching to groundwater (e.g., Water Board ESLs). The engineered fill shall be characterized by representative sampling in accordance with U.S. EPA's SW-846 Test Methods, by a qualified environmental professional and demonstrated to meet the threshold criteria above. The results of the sampling and waste characterization shall be submitted by the contractor(s) to the City and SMCEHD prior to construction.

**SCOA 9.15:** All excess fill shall be disposed of in accordance with City requirements.

**SCOA 11.13:** State safety regulations regarding the transport, handling and storage of hazardous materials shall be strictly adhered to. Periodic inspection by State inspectors and city fire marshals is required.

**SCOA 11.14:** Storage of hazardous materials shall be directed to areas in the complex where maximum protection of office and other active work areas can be provided.

**SCOA 11.15:** Prior to such storage or use, individual businesses that intend to store or use hazardous materials must obtain a permit from the Fire Department (in accordance with the adopted California Fire Code).

**SCOA 11.17:** The applicant/property owner shall provide and conduct regular maintenance of the Emergency Responder Radio Coverage System (ERRCS) that meets the

Telecommunications Engineering Associates (TEA) standard. The applicant/property owner shall provide an annual certificate of inspection.

**Finding:** Foster City has adopted SCOAs 2.18, 2.19, 2.22, 3.1, 3.2, 3.3, 3.4, 6.15, 6.16, 9.13, 9.14, 9.15, 11.13, 11.14, 11.15, 11.17 for large new and redevelopment projects. These measures are feasible and applicable to the project and would reduce construction related hazards and hazardous materials impacts of the project to a less-than-significant level.

## Noise and Vibration

### a. Substantial Temporary or Permanent Increase in Ambient Noise Levels

**Impact NOISE-1:** Construction of residential development under the project could generate a substantial temporary increase in ambient noise levels in the project vicinity in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. (S)

**Mitigation Measure NOISE-1:** Should construction equipment be required within applicable 100-dBA buffer areas identified in Table IV.F-6, the project applicant shall obtain prior authorization from the director of planning and development services in accordance with Municipal Code section 17.68.030(F) *Exemptions*. The project applicant shall also comply with any special mitigation measures as determined by the Community Development Director (referred to as director of planning and development services in the ordinance). Special mitigation measures shall be described in a Construction Noise Management Plan prepared by a qualified acoustical consultant. The project contractor(s) shall implement the approved Plan during construction. Potential attenuation measures may include, but are not limited to, the following:

- Erect temporary plywood noise barriers between the equipment and adjacent land uses.
- Use “quiet” pile driving technology (e.g., silent pile driver or pre-drilling), where feasible in consideration of geotechnical and structural requirements and conditions.
- Use smart back-up alarms on mobile construction equipment that automatically adjust the sound level of the alarm in response to ambient noise levels.
- Use “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible. (LTS)

The following SCOAs and General Plan FEIR mitigation measures related to noise would apply to the project:

**SCOA 2.9:** The construction contractor shall designate a “noise disturbance coordinator” who shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., beginning work too early, bad muffler) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The construction contractor shall protect all downstream sanitary sewer lines from construction debris while performing sanitary sewer construction. Means to prevent construction debris must be used and shall be inspected by the construction inspector.

**SCOA 2.17:** Prior to commencement of any site work or placement of any construction trailers, the applicant shall submit a Site Logistics Plan showing proposed haul routes, placement of the construction trailers (if any) and areas for materials/equipment materials/equipment delivery, materials/equipment storage, waste collection and maintenance/fueling of vehicles/equipment. The Site Logistics Plan shall be subject to approval by the Community Development Director.

- (...)
- The Site Logistics Plan shall locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.

**SCOA 9.1:** Construction activities shall be limited to the hours of 8 a.m. to 5 p.m. on weekdays unless deviations from this schedule are approved in advance by the City. Nonconstruction activities may take place between the hours of 7 a.m. and 8 a.m. on weekdays and 9 a.m. and 4 p.m. on Saturdays but must be limited to quiet activities and shall not include the use of engine-driven machinery. No actual construction activities may take place between 7 a.m. and 8 a.m., except when post-tension slab foundations are being poured, the concrete pumper may be set up but no concrete may be poured. Forklifts shall be allowed to operate onsite between the hours of 5 p.m. and 6:30 p.m. on weekdays. Construction noise levels shall not exceed the interior noise level of 50 Dba  $L_{eq}$  (hourly average) or the maximum noise level of 70 dBA  $L_{max}$  within occupied noise sensitive land uses. The Council reserves the right to rescind this condition and further restrict construction activities in the event that the public health, safety and welfare are not protected due to noise levels emanating from the construction project.

- 9.1.1** Any requested deviations from the allowed hours for construction activities shall be submitted to the Community Development Director a minimum of two (2)

working days in advance for review and approval. Any approved deviations from the allowed hours shall be communicated to the Building Inspection Division and the Police Department.

**SCOA 9.2:** In order to minimize construction noise impacts, all engine-driven construction vehicles, equipment and pneumatic tools shall be required to use effective intake and exhaust mufflers; equipment shall be properly adjusted and maintained; all construction equipment shall be equipped with mufflers in accordance with OSHA standards.

**SCOA 9.4:** The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.

**SCOA 9.5:** The following controls shall be implemented at all construction sites within the project to control dust production and fugitive dust.

- (...)
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations (CCR). Clear signage shall be provided for construction workers at all access points.

**Mitigation Measure 3.9-5:** Update the Noise Element of the Foster City General Plan to include the following policy language. The following policy shall apply during environmental review of major projects that involve the use of pile drivers or other heavy equipment or construction techniques that may result in significant levels of groundborne vibration.

Projects shall be designed and implemented to reduce adverse construction vibration impacts to sensitive receptors, as feasible, when vibration-related construction activities are to occur within 100 feet or less from existing sensitive receptors. Measures to reduce noise and vibration effects may include, but are not limited to:

- Phase demolition, earth-moving, and ground-impacting operations so as not to occur in the same time period.
- The pre-existing condition of all buildings within a 100-foot radius will be recorded in order to evaluate damage from construction activities. Fixtures and finishes within a

100-foot radius of construction activities susceptible to damage will be documented (photographically and in writing) prior to construction. All damage will be repaired back to its pre-existing condition.

- Substituting vibration-generating equipment with equipment or procedures that would generate lower levels of vibration. For instance, in comparison to impact piles, drilled piles or the use of a sonic or vibratory pile driver are preferred alternatives where geological conditions would permit their use.
- Other specific measures as they are deemed appropriate by the implementing agency to maintain consistency with adopted policies and regulations regarding vibration.

**Finding:** These measures are feasible and applicable to the project and would reduce project impacts related to noise from construction and operation of individual residential developments to a less-than-significant level.

## 6. Population and Housing

The Final EIR found that no significant population and housing impacts would occur with implementation of the following Housing Element Programs.

**Program H-C-3-a Phased Redevelopment of Existing Multifamily Developments.** If an existing multifamily apartment development is redeveloped including the removal of 25 or more units, the project construction shall be phased such that displacement of residents is minimized to the greatest extent feasible. A Planning application submitted for redevelopment including removal of any units shall include a plan that demonstrates how impacts to existing tenants that are being displaced are minimized. Such plan shall also include a robust outreach plan to affected tenants.

**Program H-C-3-b Anti-Displacement Strategy.** Develop an Anti-Displacement Strategy, including assessment of a variety of tenant protection measures to determine if appropriate for Foster City, including but not limited to: a) expansion of relocation benefits beyond those required by California law for landlords to pay to lower-income tenants to also apply to moderate-income tenants; b) expansion of the amount of relocation benefits beyond those required by California law for lower-income tenants; c) minimum lease terms; d) required notifications to tenants and landlords of legal requirements; and e) expansion of any other relocation/anti-displacement provisions.

**Finding:** The project is consistent with the local, regional, and state plans and policies and would not induce unplanned population growth. The project would not result in displacement of substantial number of population or housing, and impacts to population and housing would be less than significant.

## 7. Public Services, Utilities, and Recreation

### a. Water Supply

**Impact SVCS-1:** There are not sufficient water supplies available to serve the project and reasonably foreseeable future development one dry year and multiple dry years within a 20-year projection. (S)

Mitigation Measure SVCS-1: Water Neutral Growth Policy. EMID shall adopt a Water Neutral Growth Policy to offset projected water demand. The Policy shall, at a minimum, include water efficiency measures to create a neutral impact on the overall service area demands and water use for future development projects. Because of the uncertainty relating to the implementation process and procedure of the future final policy, the timing to implement the policy and its measures, and the effectiveness of the policy to reduce all impacts to less than significant level, the impact remains significant and unavoidable. (SU)

**Finding:** The EIR identified Mitigation Measure SVCS-1 as a potentially viable measure to reduce Impact SVCS-1 to a less-than-significant level. Mitigation Measure SCVS-1 would have required the adoption of a Water Neutral Growth Policy to offset projected water demand of future individual development projects to create a neutral impact on the overall service area water demands, which requires the Estero Municipal Improvement District Board (EMID) approval. On March 20, 2023, EMID adopted a Water Neutral Growth Policy directing staff to prepare a Water Neutrality Growth Ordinance to implement regulations requiring applicable new development, redevelopment, or change in use of any non-single family dwelling within the EMID service area that will require a new water service from EMID or will increase water demand on the project site above the baseline water demand to offset the new water demand with water offset measures to neutralize and/or reduce the impact on overall service area demands, which will require City Council approval. Because of the unknown implementation process and procedure for individual development projects and the timing to implement those measures, this impact is deemed significant and unavoidable even with this mitigation measure. The Council further finds that there are no other feasible mitigation measures that would reduce this impact to a less-than-significant level. Therefore, the impact would remain significant and unavoidable. However, this significant unavoidable impact is deemed acceptable due to other benefits of the project outlined in Section E. Statement of Overriding Considerations.

The following SCOAs related to public services, utilities, and recreation would apply to the project.

**SCOA 2.3:** The applicant shall provide a Waste Management Plan for all aspects of construction from start to finish with estimated quantities of debris expected to be generated by the project, how it will be recycled/disposed of, and an accompanying deposit in accordance with Chapter 15.44 of the Foster City Municipal Code. A separate Waste Management Plan will be required for projects that require Demolition (see Section 3.0).

**SCOA 2.4:** Prior to issuance of a building permit, the Construction Best Management Practices (BMPs) from the San Mateo Countywide Stormwater Pollution Prevention Program shall be included as notes on the building permit drawings.

**SCOA 2.9:** The construction contractor shall designate a “noise disturbance coordinator” who shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., beginning work too early, bad muffler) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The construction contractor shall protect all downstream sanitary sewer lines from construction debris while performing sanitary sewer construction. Means to prevent construction debris must be used and shall be inspected by the construction inspector.

**SCOA 5.8.1:** The applicant shall have a registered civil engineer prepare a sewer flow projection study and a hydraulic capacity study, to be submitted to the Engineering Division for review. The study shall meet the approval of the Engineering Division and should:

- Verify that the existing sewer system is properly sized to meet the projected increase in wastewater generation on the project site.
- Study the on and off-site sewer system (including lift stations) which services the project (both upstream and downstream).
- Show the new connecting points to the existing sewers and model the estimated flows and peaking factors, as they relate to the changes in land use for the project.

No on-site or downstream overloading of existing sewer system will be permitted. Any necessary improvements identified by the study shall be constructed by the developer/applicant at applicant’s sole cost.



**SCOA 5.8.2:** Prior to issuance of a building permit, the improvement plans shall include the design of a wastewater collection system in accordance with the City's Standard Details/Specifications and to the satisfaction of the Engineering Division. Wastewater collection system items of construction should include at least the following:

- The locations and numbers of on-site pump stations with permanent standby power, telemetry system and controls. All shall be as approved by the Engineering Division.
- Modification to and addition of permanent standby power to which the proposed system is contributing sewage, if required.
- Sanitary sewer mains.
- Manholes with manhole frames and covers.
- Cleanouts. In commercial/industrial buildings the sewer inspection cleanouts shall be at accessible outside locations to allow for wastewater sampling.
- Wye branches and laterals.
- And together with appurtenances to any or all of the above.

**SCOA 5.9.1:** Prior to issuance of a building permit, the improvement plans shall include the design of stormwater improvements in accordance with the City's Standard Details/Specifications and to the satisfaction of the Engineering Division. Stormwater improvements items of construction should include at least the following:

- surface and subsurface storm drain facilities;
- manholes with manhole frames and covers;
- catch basins and laterals;
- construct all catch basins as silt detention basins;
- And together with appurtenances, to any or all of the above.

**SCOA 5.9.2:** Prior to issuance of a building permit, a complete storm drainage study of the proposed development shall be prepared by a registered civil engineer and submitted as part of the improvement plans package. Drainage facilities shall be designed in accordance with accepted engineering principles and be approved by the Engineering Division. The hydrology/hydraulic analysis shall include the following:

- The amount of runoff, and existing and proposed drainage structure capacities.
- Verification that the existing storm drain system is adequately sized to handle the run-off from the project.
- Conformance with the City's Drainage Design Criteria/Standards available on the City's website:  
<https://www.fostercity.org/publicworks/page/city-standard-design-criteria>

- Calculations and plans showing hydraulic gradelines.
- Evidence that the system is capable of handling a 25-year storm with the hydraulic grade line at least one foot below every grate.

No overloading of the existing system will be permitted. All needed improvements shall be installed by the applicants at applicants' sole cost.

**SCOA 5.9.3:** The applicant shall fully comply with the C.3 provisions of the Municipal Regional Stormwater NPDES Permit (MRP). Responsibilities include, but are not limited to, designing Best Management Practices (BMPs) into the project features and operation to reduce potential impacts to surface water quality associated with operation of the project. These features shall be included in the design-level drainage plan and final development drawings. Specifically, the final design shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development.

All Stormwater control measures outlined in the current San Mateo Countywide Water Pollution Prevention Program's C.3 Stormwater Technical Guidance manual shall be incorporated into the project design. Low Impact Development features, including rainwater harvesting and reuse, and passive, low-maintenance BMPs (e.g., grassy swales, porous pavements) are required under the MRP. Higher-maintenance BMP's may only be used if the development of at-grade treatment systems is not possible, or would not adequately treat runoff. Funding for long-term maintenance for all BMPs must be specified (as the City will not assume maintenance responsibilities for these features). The applicant shall establish a self-perpetuating drainage system maintenance program for the life of the project that includes annual inspections of any stormwater detention devices and drainage inlets. Any accumulation of sediment or other debris would need to be promptly removed. In addition, an annual report documenting the inspection and any remedial action conducted shall be submitted to the Public Works Development for review and approval.

The drainage plan shall be prepared to the satisfaction of the Engineering Division.

**SCOA 5.9.4:** Prior to issuance of a building permit, should the City determine that the City's storm drain system or storm drain pumping capacity requires expansion or modification as a result of the applicants' development, the applicants shall pay for all necessary improvement costs. The timing and amount of payment shall be as determined by the City.

**SCOA 5.10.1:** To properly evaluate necessary improvements, a complete water system capacity study of the on-and-off site water system which services the project shall be prepared by a registered civil engineer approved by the City/District Engineer, and retained

by the project developer prior to approval of a building permit. The study shall include: a map showing the project location, utility drawings for the project area (pdf and CAD files), a project description (type of development, number of units, land use, acreage, etc.), and a system demand analysis (including average daily demand, maximum daily demand, peak hour demand, and fire flow requirements), specific to the proposed development. The study shall include a detailed water pipe hydraulic flow analysis to determine whether the existing water distribution system is properly sized to meet the projected new water demands on the project site. All needed construction improvements to upsize the existing water distribution system to meet the demands of the new project shall be constructed to meet California Fire Code and Foster City Fire Department requirements, by the applicant at the applicant's sole cost.

**SCOA 5.10.2:** Prior to the issuance of a building permit, the improvement plans shall include the design of a domestic water system to the satisfaction of the Engineering Division. Water distribution system items of construction shall include at least the following:

- backflow prevention devices;
- water mains – minimum main size is 8 inches in any area. Fire flow determined for buildings/areas per "The Guide for Determining Required Fire Flow; Insurance Services Office; Municipal Survey Service;"
- valves;
- tees;
- fittings;
- hydrants;
- meters;
- services;
- and together with appurtenances to any or all of the above;
- all water mains serving fire hydrants, shall be a minimum of 8 inches in diameter.

**SCOA 5.10.3:** Water lines shall be designed for fire flows to meet California Fire Code and Fire Department requirements.

**SCOA 5.10.4:** All on-site fire water service mains shall have two sources of supply connections to City/District water system, be looped and meet the requirements of the State Department of Health Services and the City Fire Marshal. A Fire Water Service Plan shall be submitted separate from civil drawings.

**SCOA 5.10.6:** Prior to the issuance of a building permit, fire mains shall be designed to Fire Department specifications. Fire mains shall be constructed according to those specifications.

**SCOA 8.1:** Submit documentation showing compliance with Chapter 8.8 of the EMID Code, including, but not limited to submittal of the Outdoor Water Use Efficiency Checklist.

**SCOA 9.15:** All excess fill shall be disposed of in accordance with City requirements.

**SCOA 9.16:** All excess fill shall be disposed of in accordance with City requirements. The construction contractor shall protect all downstream sanitary sewer lines from construction debris while performing sanitary sewer construction. Means to prevent construction debris must be used and shall be inspected by the construction inspector.

**SCOA 10.7:** Prior to occupancy the existing storm drain pipe lines on the project site and downstream to the nearest lagoon inlet shall be cleaned and sediment removed at the completion of the project. Applicant shall submit a map illustrating the route to be televised for approval of the Engineering Division prior to sediment removal. The storm drain pipe lines shall be televised after cleaning to verify that the sediment has been removed and to identify any damages to the storm drain pipe lines during construction. A post construction survey report shall be prepared identifying facilities to be repaired and confirming removal of sediment from storm lines. The applicant shall be responsible for constructing and financing any such repairs. Sediment left in mains shall be subject to re-cleaning at the applicant's sole cost.

**SCOA 10.8:** Prior to occupancy the applicant shall arrange a joint field meeting with representatives of the Water Department to perform a visual survey of the condition of the existing water distribution system (including testing of valves and appurtenances) in the vicinity of the project site. The applicant shall prepare a post-construction survey report to be submitted to the Foster City Public Works Department for review. Report shall document any necessary repairs required to the existing water supply infrastructure. The applicant shall be responsible for constructing and financing any such repairs.

## **8. Aesthetics**

### **a. Conflicts with Regulations Governing Scenic Quality**

**Impact AES-1:** Development under the project located south of East Hillsdale Boulevard, within established residential neighborhoods, could have a significant adverse impact on the visual quality of the city. (S)

**Mitigation Measure AES-1:** Due to the nature of aesthetic impacts being the effects of a project on the visual appearance of an area including changes to views and the overall

appearance of the environment, there are no feasible mitigation measures to reduce this impact to a less-than-significant impact while meeting the project objectives. (SU)

**Finding:** The Council finds that at this time, without clear information on how each project may implement design features to reduce any potential impact or effects to be consistent with the City's established policies, this impact is deemed significant and unavoidable. The Council further finds that there are no feasible alternatives to the project that would avoid this impact. However, this significant unavoidable impact is deemed acceptable due to other benefits of the project outlined in Section E. Statement of Overriding Considerations.

The following SCOAs related to aesthetics and visual resources would apply to the project.

**SCOA 8.2:** An exterior lighting plan including fixture and standard design, coverage and intensity shall be submitted, to be reviewed and approved by the Community Development Department and the Police Department. In its review of the lighting plan, the City shall ensure that any outdoor night lighting proposed for the project is downward-facing, not overly bright at the property line and shielded so as to minimize nighttime glare and lessen impacts to neighboring properties. The City shall also ensure that all development plans for the project conform to the performance standards provided under Section 17.68.080 of the Foster City Municipal Code.

## D. ALTERNATIVES TO THE PROJECT

Under CEQA, project alternatives that would avoid or substantially lessen a project's significant environmental impact(s) while achieving most of the basic project objectives must be considered. The objectives of the proposed project are to:

- Update the General Plan's Housing Element to comply with State-mandated housing requirements and to address the maintenance, preservation, improvement, and development of housing in the city between 2023 and 2031.
- Include an inventory of housing sites and rezone the sites as necessary to meet the required Regional Housing Needs Allocation (RHNA) and to provide an appropriate buffer.
- Identify and include housing sites, policies and programs that will help the City meet its Regional Housing Needs Allocation in a manner that affirmatively furthers fair housing.
- Make necessary General Plan amendments and zoning changes in a manner that affirmatively furthers fair housing while preserving the character of Foster City and perpetuating the safety and welfare of both existing and future residents.

- Update the General Plan's Safety Element to comply with State-mandated safety requirements and identify and assess potential risks within the city including seismic hazards, sea level rise, flooding (including dam inundation), climate change, urban fires, and hazardous materials release.

The three project alternatives analyzed in this EIR are as follows:

- **No Project Alternative:** Under this alternative, the City would continue to implement the adopted 2015-2023 Housing Element and Local Hazard Mitigation Plan and Safety Element adopted in 2016, and the proposed 2023-2031 Housing Element and Safety Element would not be adopted. Future housing development would be developed in accordance with the 2015-2023 Housing Element and would continue to have a development potential of 826 units. This alternative would result in a total net reduction in development potential by 2,189 units when compared to the project and a 1,070-unit shortfall of the City's RHNA obligation.
- **Partial Reallocation to Mixed Use Alternative:** Under this alternative, housing sites located at the Schooner Bay Apartments Site (646 units), would be eliminated from the Housing Inventory Sites. The units at this site would be reallocated by rezoning the Foster's Landing Site from R-4/PD to allow Mixed-Use and the development of 500 units. This would increase the number of new units at this site from 819 to 1,319. In addition, Edgewater Place Center would be rezoned from C-1/PD to Mixed-Use to allow for 146 new units. Rezoning Edgewater Place Center would require a General Plan Amendment. Both the Foster's Landing Site and Edgewater Place Center Site are located in areas with lower home-based VMT, however neither site are below the VMT threshold of 15 percent below the regional average, as all of Foster City is above that threshold. Based on the Housing Inventory Sites, this alternative would result in a net zero change in development potential.
- **Higher Density Alternative to Reduce VMT:** Under this alternative, housing sites located at the Schooner Bay Apartments Site (646 units), would be reallocated by rezoning the Foster's Landing Site to allow for up to 41 units per acre, increasing the amount of development at the site by 500 units. This would increase the number of new units at this site from 819 to 1,319. In addition, the Metro Center Boulevard Site would be rezoned to allow up to 58 units per acre, increasing the amount of residential development at this site by an additional 146 units. This alternative requires a General Plan Amendment for both the Foster's Landing Site and Metro Center Boulevard Site. Both the Foster's Landing Site and Metro Center Site are located in areas with lower home-based VMT. Based on the Housing Inventory Sites, this alternative would result in a net zero change in development potential.

The EIR includes detailed analysis on the potential impacts of each alternative by environmental topic. After reviewing the EIR and other relevant information in the administrative record, the

City Council determines that the three alternatives are infeasible. The reasons for rejecting each alternative are discussed in this section. The reasons for rejecting each alternative are independent and each reason alone is sufficient to support a determination that the alternative is infeasible.

## **1. Alternative 1: No Project Alternative**

### **a. Description**

The No Project Alternative assumes the project site would remain in its current condition and would not be subject to new development. No physical alterations would occur and the lot would continue to be vacant.

### **b. Comparison to Project**

The No Project Alternative would not achieve, or achieve to a lesser degree, the following project objectives:

- Update the General Plan's Housing Element to comply with State-mandated housing requirements and to address the maintenance, preservation, improvement, and development of housing in the City between 2023 and 2031.
- Include an inventory of housing sites and rezone the sites as necessary to meet the required Regional Housing Needs Allocation (RHNA) and to provide an appropriate buffer.
- Identify and include housing policies and programs that will help the City meet its Regional Housing Needs Allocation in a manner that affirmatively furthers fair housing.
- Make necessary General Plan amendments and zoning changes in a manner that affirmatively furthers fair housing while preserving the character of Foster City and perpetuating the safety and welfare of both existing and future residents.
- Update the General Plan's Safety Element to comply with State-mandated safety requirements and identify and assess potential risks within the City including seismic hazards, sea level rise, flooding (including dam inundation), climate change, urban fires, and hazardous materials release.

### **c. Findings**

Implementation of the No Project Alternative would require that future housing development would be developed in accordance with the 2015-2023 Housing Element and would continue to have a development potential of the remaining 145 very low-, low-, and moderate-income level units identified in the 2015-2023 RHNA. This alternative would result in fewer units of 145 total than the City's identified 2023-2031 RHNA, which is 1,896 units or the RHNA plus buffer, which is 3,015 units. It should be noted that if the City were to adopt the No Project Alternative, there

would likely be additional development constructed under a situation called the “Builder’s Remedy.” If a municipality does not have a Housing Element certified by the California Department of Housing and Community Development (HCD), the California’s Housing Accountability Act (HAA) allows developers of affordable housing projects (i.e., projects with at least 20 percent low-income or 100 percent moderate-income housing) to bypass the zoning code and general plan requirements of cities that are out of compliance with the Housing Element Law. Therefore, this can result in development that exceeds adopted development standards (e.g., height and density standards) and a City would have a very limited ability to deny qualifying housing development projects. Given the speculative nature of determining the amount of housing that could occur under a Builder’s Remedy situation, this alternative just includes an analysis of the 145 units, as described above. However, if the No Project Alternative was adopted by the City Council, this alternative would likely result in the development of more units than analyzed within this alternative.

Based on the foregoing findings, and even though the No Project Alternative is the environmentally superior alternative, the Council rejects Alternative 1.

## **2. Partial Reallocation to Mixed Use Alternative**

### **a. Description**

Under this alternative, the Schooner Bay Apartments Site (646 units), which is in a high VMT area, would be eliminated from the Housing Inventory Sites. The units at this site would be reallocated to lower VMT areas as follows:

- Foster’s Landing Site would be rezoned from R-4/PD to allow Mixed-Use and the development of 500 units. This would increase the number of new units at this site from 819 to 1,319. Rezoning Foster’s Landing to allow mixed use would require a General Plan Amendment.
- Edgewater Place Center would be rezoned from C-1/PD to Mixed-Use to allow for 146 new units. Rezoning Edgewater Place Center to allow mixed use would require a General Plan Amendment.

### **b. Comparison to Project**

The Partial Reallocation to Mixed Use Alternative would achieve most of the project objectives. This alternative would maintain approximately the same required number of units per RHNA.

### **c. Findings**

Both the Foster’s Landing Site and Edgewater Place Center Site are located in areas with lower home-based VMT while other environmental conditions are similar to the proposed project.



All other inventory sites within the Housing Element Update would remain as proposed, and all the components of the project (Housing Element Update, Safety Element Update and Associated Rezoning) would be adopted. This alternative would result in the same amount of development as associated with the project (a total of 3,015 units). The combination of Foster's Landing and Edgewater Place would replace the amount of retail that currently exists at Edgewater Place. As a result, there would not be a change to the total amount of retail space. This alternative would increase the density of some housing sites and locate more units at mixed use sites. Future residents at these sites would generate less VMT than existing Foster City residents and the home-based VMT per resident for the City would decrease slightly compared to the proposed project. However, given the proportion of this densification to the existing residents within Foster City, the reduction in the VMT per capita would not be substantial enough to reduce the VMT impact to a less-than-significant level. Therefore, this alternative would continue to result in significant and unavoidable impact to VMT, with implementation of the identified mitigation measures, when compared to the project. Furthermore, this alternative would not meet the AFFH project objectives to its full intent as the reallocation of units away from the Schooner Bay Apartments site would reduce distribution of housing choices including affordable housing in the southern part of Foster City. In addition, the Edgewater Place site has an existing long term lease with a major grocery store, and therefore, it would be challenging for the City to make the findings required for HCD approval of a non-vacant site in the 2023-2031 Housing Element Housing Sites Inventory. Therefore, this alternative would not achieve the project objectives to the same degree as the proposed project.

Based on the foregoing findings, and even though the Partial Reallocation to Mixed Use Alternative would allow the City to meet its 6<sup>th</sup> Cycle RHNA obligations and slightly reduce project impacts associated with transportation, the Council rejects Alternative 2.

### **3. Higher Density Alternative**

#### **a. Description**

Under this alternative, housing units identified for the Schooner Bay Apartments Site (646 units), which are in a high VMT area, would be eliminated from the Housing Inventory Sites. These units would be reallocated to lower VMT areas as follows:

- Foster's Landing Site would be rezoned to allow for up to 41 units per acre, increasing the amount of development at the site by 500 units. This would increase the number of new units at this site from 819 to 1,319. Rezoning Foster's Landing to allow higher density would require a General Plan Amendment.
- Metro Center Boulevard Site would be rezoned to allow up to 58 units per acre, increasing the amount of residential development at this site by an additional 146 new units.

## **b. Comparison to Project**

The Higher Density Alternative would achieve most of the project objectives. This alternative would maintain approximately the same required number of units per RHNA. However, this alternative meets the AFFH project objectives to a lesser degree with the reallocation of units away from the Schooner Bay Apartments site.

## **c. Findings**

Both the Foster's Landing Site and Metro Center Boulevard Site are located in areas with lower home-based VMT. This alternative assumes all other inventory sites within the Housing Element Update would be developed as proposed, and all the components of the project (Housing Element Update, Safety Element Update, and General Plan and Zoning Amendments) would be adopted. This alternative would result in the same amount of development as associated with the project (3,015 units). This alternative would increase the density of some housing sites and locate more units at mixed use sites. Future residents at these sites would generate less VMT than existing Foster City residents and the home-based VMT per resident for the City would decrease slightly compared to the proposed project. However, given the proportion of this densification to the existing residents within Foster City, the reduction in the VMT per capita would not be substantial enough to reduce the VMT impact to a less-than-significant level. Therefore, this alternative would continue to result in significant and unavoidable impact to VMT, with implementation of the identified mitigation measures, when compared to the project. Furthermore, this alternative would not meet the AFFH project objectives to its full intent as the reallocation of units away from the Schooner Bay Apartments site would reduce distribution of housing choices including affordable housing in the southern part of Foster City. Therefore, this alternative would not achieve the project objectives to the same degree as the proposed project.

Based on the foregoing findings, and even though the Higher Density alternative would allow the city to meet its 6<sup>th</sup> Cycle RHNA obligations and would slightly reduce project impacts associated with transportation, the Council rejects Alternative 3.

# **E. STATEMENT OF OVERRIDING CONSIDERATIONS**

## **1. Overriding Considerations**

The Council has considered the project's significant and unavoidable impacts set forth above and measured the benefits of the project against the unavoidable environmental impacts identified in the EIR. As authorized by CEQA Guidelines Section 15903, the Council finds that the project's economic, social, technological, legal and other benefits, including region-wide or statewide environmental benefits outweigh and make acceptable the potentially unavoidable adverse

environmental impacts. Therefore, the Council adopts this Statement of Overriding Considerations. The Council finds that the benefits of the project outweigh the benefits of other examined alternatives, including those deemed infeasible in Section D above.

## **2. Benefits of the Project**

*The expected benefits of the project are:*

### **a. The project will improve and conserve existing housing stock.**

The project will provide adequate, safe, and decent housing for existing Foster City residents. Through the implementation of Housing Element programs, existing affordable housing stock will be retained, involvement in local housing assistance programs will become more accessible, displacement will be prevented, and infrastructure improvements will be made.

### **b. The project will facilitate housing production and provide Foster City Residents with a variety of housing options.**

The project would provide a variety of housing options for Foster City residents across all income groups. The project accommodates for the potential future development of up to 3,015 residential units, including 609 units affordable for extremely low-income households, 398 for low-income, 324 for moderate-income, and 1,684 for above moderate-income.

### **c. The project will redevelop under-utilized sites.**

Buildout of the 6<sup>th</sup> Cycle Housing Element would occur on underutilized sites. Currently, underutilized sites disrupt the area's land use pattern and are not providing any benefit to the community or region. Rezoning underutilized sites to allow for higher density residential development will generate more variety in housing typologies throughout the city and enable small infill and missing-middle projects.

### **d. The project will improve equal housing opportunities and access to fair housing information.**

Implementation of the Housing Element objectives will improve the provision of housing opportunities for all people and ensure the sale, rental, or financing or housing is not denied to any individual on the basis of race, ethnicity, sex, national origin, religion, age, or other factors. The project will also ensure improved access to fair housing information such as anti-discrimination regulations and how to file a complaint is provided.

**e. The project will mitigate natural and human-caused hazards, thereby improving public safety and resiliency.**

Implementation of the Safety Element project objectives will mitigate the potential for loss of life, injury, property damage, and economic and social disruption resulting from natural and human-caused hazards in the community. The City will be more equipped to deal with issues brought on by climate change and other hazards such as floods, droughts, earthquakes, and landslides.

**F. CUSTODIAN OF DOCUMENTS**

The City Clerk is designated as the custodian of the documents and record of proceedings on which this decision is based. The City Clerk's office is located at City Hall. The address of City Hall is 610 Foster City Boulevard, Foster City, California 94404.