STAFF REPORT

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ACCEPTANCE OF LEASE QUITCLAIM DEEDS AND ISSUANCE OF A GENERAL LEASE – PUBLIC AGENCY USE

LESSEES:
City of Foster City and Estero Municipal Improvement District

APPLICANT:
City of Foster City

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:
Sovereign land along the San Francisco Bay and Belmont Slough, near Foster City, San Mateo County.

AUTHORIZED USE:
Rehabilitation, use, and maintenance of existing coastal levees, recreational features, and an outfall structure.

LEASE TERM:
35 years, beginning April 5, 2019.

CONSIDERATION:
Public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:
Public Resources Code sections 6005, 6216, 6220, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:
On September 29, 1975 the Commission authorized a 49-year Public Agency Permit for a storm discharge outfall structure to Estero Municipal Improvement District (District) (Item 19, September 29, 1975). That lease

(PRC 5054.9) will expire on August 31, 2024. The District is governed by the City of Foster City.

On September 23, 1991, the Commission authorized a 49-year Public Agency Permit – Public Agency Use, beginning September 1, 1975, for levee improvements and pathway system to the City of Foster City, Estero Municipal Improvement District (Item C17, September 23, 1991). That lease (PRC 7593.9) will expire on September 30, 2040. The lease was subsequently amended twice on June 30, 1992 (Item C15, June 30, 1992) and on November 7, 1997 (Item C29, November 7, 1997) to include additional parcels to the levee improvements and recreational pathway system.

On October 29, 2010, the Commission authorized a 25-year General Lease – Public Agency Use for the retention, use, and maintenance of an existing public recreational asphalt pedway and levee to the City of Foster City (Item C39, October 29, 2010). That lease (PRC 8902.9) will expire on October 28, 2035.

The Lessees will execute three quitclaim deeds, releasing their interests in the lease areas mentioned above, effective April 4, 2019. Staff recommends acceptance of the lease quitclaim deeds and issuance of a new lease to the Applicant effective April 5, 2019.

The City of Foster City (City) has applied for a General Lease – Public Agency Use for the rehabilitation of coastal levees, an outfall structure, and recreational features. The proposed lease area and facilities will be part of the Foster City Levee Protection Planning and Improvements Project (Project), which will rehabilitate the existing levee system around the City and allow the City to retain Federal Emergency Management Agency (FEMA) accreditation and to accommodate sea-level rise to 2050 with an adaptation strategy beyond 2050. The Project objectives are to protect human health and safety and reduce the risk of economic and environmental damages caused by potential tidal flooding as a result of levee overtopping from high tides or wave runup. The Project will also rehabilitate Public Trust-consistent recreational features, such as the Bay Trail and access ramps.

The portion of the Project proposed to be located on State sovereign land is less than 2 acres and will include a portion of the existing levee system around the City. Most of the lands underlying the proposed approximately 34,300-linear-foot levee are owned and managed by the City of Foster City. To satisfy current FEMA requirements, the required freeboard

elevation needs to be raised. Freeboard is additional levee height above the 100-year flood elevation that compensates for anomalies that could contribute to greater flood heights, such as wave action and the hydrological effect of urbanization of the watershed.

The existing levee system was originally authorized by the U.S. Army Corps of Engineers (USACE) in 1976. The City's levee system has been subsequently improved over time in order to maintain FEMA levee accreditation and was last re-accredited by FEMA in 2007. In July 2014, FEMA completed the Central San Francisco Bay Coastal Flood Hazard Study that included Foster City. Based on the study, roughly 85 percent of the City's levee system does not meet the required freeboard elevation, which means that the levee will not retain its FEMA accreditation status. Loss of this accreditation would place approximately 9,000 individual properties in a FEMA-designated Special Flood Hazard Area, requiring homeowners with federally insured mortgages to obtain flood insurance.

The existing levee elevation ranges from 10 to 13 feet above the North American Vertical Datum of 1988 (NAVD 88). The freeboard elevation required to meet current FEMA standards and retain FEMA accreditation is between 12.2 and 16.5 feet above the NAVD 88. The freeboard elevation to account for sea-level rise to 2050 ranges between 13 and 19 feet above the NAVD 88, which are the elevations proposed by this Project. To accomplish the Project purpose, the levee will be raised utilizing a combination of three different construction approaches, depending on the location along the existing levee and the adjacent site constraints. These levee rehabilitation types include sheet pile floodwall, earthen levee, and conventional floodwall. Combining the three improvement types would provide the most flexibility to meet current FEMA standards and 2050 sea-level rise predictions while maintaining public access and minimizing and avoiding negative environmental impacts.

A sheet pile floodwall uses sheet pile as a permanent flood protection structure and will be used where there is insufficient right-of-way width for other construction approaches or where encroachment may occur into wetland areas. A sheet pile floodwall will be used along approximately 23,170 linear feet of the levee and will be designed to accommodate loads from future incremental wall height increases necessary to adapt to future sea-level rise.

An earthen levee will require excavation of the existing levee's top layer and conditioning it to support new engineered fill. The earthen levee would

be approximately 4,590 linear feet long and will range from 13.5 to 18 feet in elevation. The base of the improved earthen levee would be expanded to support additional fill that may be placed in future years to provide protection against future sea-level rise.

A conventional floodwall design would be composed of a vertical concrete wall that varies in height from 4.5 to 10 feet above the finish grade and is between 8 and 12 inches wide. Additional earthen fill may be added to increase the height of the trail and reduce the relative height of the wall to enhance views of San Francisco Bay and to ensure that the maximum wall height does not exceed 3.5 feet from the grade adjacent to the Bay Trail. The base of the conventional floodwall structure would be designed to accommodate an increased wall height to adapt to future sea-level rise.

The Project will also upgrade the existing lagoon intake and outfall structures and six existing access ramps. A portion of the outfall structure and a portion of two of the access ramps are located on State sovereign land. The outfall structure serving the City's lagoon system will be modified to accommodate the levee rehabilitation, and the construction work will be landward of State sovereign land. The primary use of the access ramps is public access for recreational uses such as windsurfing, fishing, and birding. The access ramps will be upgraded to allow for Americans with Disabilities Act compliance and for safe access of emergency rescue watercraft to the San Francisco Bay.

Staff believes the levee rehabilitation Project is consistent with the common law Public Trust Doctrine. Overall, the Project is intended to raise an existing reinforced structural levee and limit potential tidal flooding. The Project also confers a public health and safety benefit to all of Foster City and the surrounding San Mateo area by addressing known levee deficiencies. While the EIR analyzes impacts of the Project through 2050, staff has reviewed the EIR and believes that the anticipated environmental impacts would be no different than for the 35-year lease term. The Project would also enhance public access to the area by rehabilitating existing recreational features.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease requires the Applicant to conduct all construction, repair, and maintenance work safely and indemnify the Commission in the event of any liability resulting from the proposed action. The proposed lease also has a term of 35 years. This lease term will allow the City to obtain the bond financing necessary to finance this important levee improvement Project, while still providing the

Commission flexibility to determine if the Public Trust needs of the area or the predicted sea-level rise has changed over time.

Climate Change:

Climate change impacts, including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The following information was provided by the City for assessment of how the Project was designed and analyzed to meet near-term and longer-term scenarios of sea-level rise. The Project area includes an extensive existing levee system for flood protection of existing development from San Francisco Bay and Belmont Slough. The entire bayfront of the City is protected from San Francisco Bay flood hazards by those levees. Of the 6.5 miles of protective levees and floodwalls maintained by the City, roughly 3.8 miles (58 percent) are subject to wind-generated wave and wave runup hazards associated with an open San Francisco Bayfront exposure, and about 2.7 miles (42 percent) are subject to the more protected estuarine (coastal stillwater and riverine) hazards associated with Belmont Slough, where significant wave action is absent.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco[1]

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2060	2.6
2070	3.5
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update
Note: [1] Projections are with respect to a 1991 to 2009 baseline.

The City's Draft Environmental Impact Report (EIR) was completed in November 2016, prior to the publication of the State's most recent sea-level rise guidelines (Table 1), which first became available in April 2017.

The EIR is founded on a 2012 report prepared by the Natural Research Council (NRC).[1] Levee improvements as planned and described in the EIR are designed with elevations to meet FEMA freeboard requirements for accreditation and to protect against future sea-level rise. Two scenarios and their environmental impacts are examined in the EIR:

1. Provide FEMA freeboard and resilience to anticipated sea-level rise through the year 2050, which based on the 2012 NRC report would be 1.25 feet

2. Provide FEMA freeboard and resilience to anticipated sea-level rise through the year 2100, which based on the 2012 NRC report would be 3.83 feet

After the public review period for the Draft EIR, the City Council directed its Public Works Department to proceed with the design, permitting, and construction of a project that provides resilience against predicted sea-level rise through 2050, and can adaptively manage for higher sea-level rise in the future. The City Council certified the Final EIR on May 8, 2017. In April 2017, the State published a different set of sea-level rise models and methodologies (Table 1) showing potential for a greater level of sea-level rise projected over the Project timeline. The State model estimates up to 1.9 feet of sea-level rise by 2050 with 95 percent confidence, assuming a "high emissions" scenario. Following certification of the EIR, the City conducted additional analysis of flood hazards, including the maximum wave runup associated with the 1 percent stillwater storm surge, to reflect the current, best available science for California (see Rising Seas In California: An Update On Sea Level Rise Science, April 2017).

As proposed, the top of levee/floodwall elevations range from 13.5 feet NAVD in Belmont Slough to 19.0 feet NAVD, depending upon exposure to wave hazards. The highest proposed floodwall elevations are between Mariner's Point and the San Mateo Bridge, where there is maximum exposure to wind-generated wave hazards.

For coastal levee accreditation, FEMA and the National Flood Insurance Program require 2 feet of freeboard above the 1 percent storm surge elevation or 1 foot of freeboard above the maximum wave runup associated with the 1 percent storm surge, whichever is higher. For riverine levees (Belmont Slough) freeboard must be established at 3 feet

[1] Natural Research Council of the National Academies, 2012. *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future.*

above the 1 percent water surface level, assuming a coincident tide at San Francisco Bay.

Based on the proposed levee and floodwall elevations, the minimum coastal freeboard above the maximum wave runup associated with the 1 percent storm surge elevation is 2.7 feet. The minimum coastal freeboard above the 1 percent storm surge elevation is 3.3 feet. The minimum riverine freeboard above the 1 percent water surface elevation is 5.3 feet. The Project meets all FEMA freeboard criteria for levee accreditation. In addition, as analyzed with the current State science, the proposed levee and floodwall elevations will, after long-term settlement, contain the maximum wave runup associated with the 1 percent stillwater surge through 2050 assuming the "high emissions scenario" and "medium-high risk aversion scenario" with 0.2 foot of freeboard.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area may be subject to the climate change effects of the projected sea-level rise scenario provided above. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of levee degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the proposed lease terminates in 2054 and would be based on projected sea-level rise scenarios at that time should the applicant reapply.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

2. **Acceptance of Quitclaim Deeds**
Acceptance of the lease quitclaim deeds is not a project as defined by California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

Proposed Levee Improvements
An EIR, State Clearinghouse No. 2016012012, was prepared for this Project by the City of Foster City and certified on May 8, 2017. Staff has reviewed this document and the Mitigation Monitoring Program prepared pursuant to the provisions of the CEQA (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

A Mitigation Monitoring Program, Findings, and a Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15093, and 15096) are contained in the attached Exhibits C and D.

Existing Facilities
Staff recommends that the Commission find that issuance of the lease for existing facilities with no proposed improvements is exempt from the requirements of CEQA as a categorically exempt project. The Project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the Project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
U.S. Fish and Wildlife
National Oceanic and Atmospheric Administration
San Francisco Regional Water Quality Control Board
San Francisco Bay Conservation and Development Commission

EXHIBITS:

A. Land Description
B. Site and Location Map
C. Mitigation Monitoring Program
D. Findings and Statement of Overriding Considerations

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Proposed Levee Improvements

Find that an EIR, State Clearinghouse No. 2016012012, was prepared for this Project by the City of Foster City and certified on May 8, 2017 and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

Adopt the Findings, made in conformance with California Code of Regulations, title 14, sections 15091 and 15096, subdivision (h), as contained in the attached Exhibit D.

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, title 14, section 15093, as contained in the attached Exhibit D.

Existing Facilities

Find that issuance of the lease for existing facilities with no proposed improvements is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective April 4, 2019 for Lease No. PRC 8902.9, a General Lease – Public Agency Use, issued to the City of Foster City.

2. Authorize acceptance of a lease quitclaim deed, effective April 4, 2019 for Lease No. PRC 5054.9, a year Public Agency Permit, issued to the Estero Municipal Improvement District.

3. Authorize acceptance of a lease quitclaim deed, effective April 4, 2019 for Lease No. PRC 7593.9, a year Public Agency Permit – Public Agency Use, issued to the City of Foster City, Estero Municipal Improvement District.

4. Authorize issuance of a General Lease – Public Agency Use to the City of Foster City beginning April 5, 2019, for a term of 35 years, for the rehabilitation, use, and maintenance of existing coastal levees, an outfall structure, and recreational features, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT A

W 27221

LAND DESCRIPTION

PARCEL 1

A parcel of sovereign land situate in the City of Foster City, County of San Mateo, State of California, being a portion of Parcel 1(B) as described in that certain Compromise Title Settlement Agreement, recorded March 15, 1996 as Instrument No. 96-030500, Official Records of San Mateo County, and also being a portion of that certain parcel of land described in that certain Grant Deed, recorded June 1, 1954 as Volume 2591, Page 41, Official Records of San Mateo County, more particularly described as follows:

The south 60' feet of the above described Parcel 1(B).

PARCEL 2

A parcel of sovereign land situate in the City of Foster City, County of San Mateo, State of California, being a portion of Parcel 2(D) as described in that certain Compromise Title Settlement Agreement, recorded March 15, 1996 as Instrument No. 96-030500, Official Records of San Mateo County, and also being a portion of that certain parcel of land described in that certain Grant Deed, recorded June 1, 1954 as Volume 2591, Page 41, Official Records of San Mateo County, more particularly described as follows:

BEGINNING at the southeast corner of said Parcel 2(2) thence along the easterly boundary of said parcel North 28°11'57" West 153.96 feet; thence North 00°01'29" East 17.59 feet; thence leaving said boundary and along the following five (5) courses:

1) North 46°52'14" West 105.68 feet;
2) North 38°51'51" West 165.10 feet;
3) North 48°24'59" West 90.98 feet;
4) North 68°12'26" West 146.38 feet;
5) North 50°56'22" West 79.94 feet to the northerly boundary of said parcel;

Thence along said northerly boundary North 82°07'33" West 76.39 feet; thence leaving said boundary and along the following seven (7) courses:

1) South 69°26'28" West 80.83 feet;
2) South 81°02'53" West 92.53 feet;
3) North 78°33'46" West 242.78 feet;
4) North 81°10'24" West 127.65 feet;
5) North 85°59'11" West 62.97 feet;
6) South 81°16'00" West 132.63 feet;
7) South 74°17'56" West 111.64 feet to the southwesterly boundary of said parcel;

Thence along said southwesterly boundary South 56°13'54" East 52.63 feet; thence continuing along the southerly boundary of said parcel the following seven (7) course:

1) North 74°17'56" East 75.00 feet;
2) North 81°16'00" East 125.73 feet;
3) South 85°59'11" East 56.82 feet;
4) South 81°10'24" East 125.06 feet;
5) South 78°33'46" East 249.06 feet;
6) North 81°02'53" East 103.79 feet;
7) North 69°25'57" East 112.50 feet to the westerly boundary of said parcel;

Thence along said westerly boundary South 04°06'42" West 99.08 feet; thence leaving said westerly boundary and along the following the following five (5) courses:

1) South 68°12'26" East 202.00 feet;
2) South 48°24'59" East 65.18 feet;
3) South 38°51'51" East 163.74 feet;
4) South 46°52'14" East 107.49 feet;
5) South 29°17'36" West 75.38 feet to the southerly boundary of said parcel, also being the northerly line of East Third Avenue;

Thence along the southerly boundary of said parcel and said northerly line South 82°06'21" East 43.26 feet to a tangent curve to the left, having a radius of 1382.60 feet; thence along said curve through a central angle of 05°46'50", an arc length of 139.46 feet to the south east corner of said parcel and the POINT OF BEGINNING.

PARCEL 3

A parcel of tide and submerged lands situate in the City of Foster City, County of San Mateo, State of California, being a portion of that parcel "Portions of Parcels 14881 and 14882-Tide and Submerged Lands" as described in "Exhibit B" in that certain Boundary Agreement, recorded February 7, 1973 as Volume 6320, Page 528, Official Records of San Mateo County, and also being a portion of that certain parcel (14881) of land described in that deed recorded May 14, 1954 in Volume 2582, Page 361 and parcel (14882) of land described in that deed recorded June 18, 1954 in Volume 2602, Page 328, Official Records of San Mateo County, more particularly described as follows:

BEGINNING at the southwest corner of said parcel as described in "Exhibit B" thence along the westerly boundary of said parcel North 28°11'21" West 154.00 feet; thence continuing along said boundary North 00°02'05" East 17.54 feet; thence leaving said boundary and long the following twenty-two (22) courses:

1) South 49°12'56" East 144.11 feet;
2) along a tangent curve to left, having a radius of 1322.61 feet, through a central angle of 17°49'39", an arc length of 411.53;
3) North 43°18'13" 51.87 feet;
4) North 60°28'27" East 113.54 feet;
5) North 69°01'02" East 52.70 feet;
6) North 64°42'34" East 118.44 feet;
7) North 56°01'08" East 125.65 feet;
8) North 65°01'37" East 334.30 feet;
9) North 68°38'34" East 178.56 feet;
10) North 71°48'08" East 149.51 feet;
11) North 67°04'17" East 249.71 feet;
12) North 71°11'36" East 124.08 feet;
13) North 64°56'06" East 144.95 feet;
14) North 61°08'44" East 150.16 feet;
15) North 63°10'54" East 89.59 feet;
16) North 68°22'52" East 77.77 feet;
17) North 40°51'20" East 162.56 feet;
18) North 63°26'25" East 67.95 feet;
19) North 53°35'28" East 26.99 feet;
20) North 53°35'28" East 2.14 feet;
21) North 24°46'31" East 28.38 feet;
22) North 53°07'48" East 29.72 feet to a point of cusp on the easterly boundary of said parcel;

Thence from a tangent that bears South 04°44'38" East, along a curve to the right, having a radius of 458.00 feet, through a central angle of 11°40'36", an arc length of 93.34 feet to the southeasterly corner of said parcel; thence along southeasterly boundary of said parcel the following seventeen (17) courses:

1) South 53°35'28" West 32.16 feet;
2) South 63°26'25" West 61.14 feet;
3) South 40°51'20" West 165.28 feet;
4) South 68°22'52" West 89.74 feet;
5) South 63°10'54" West 85.80 feet;
6) South 61°08'44" West 151.08 feet;
7) South 64°56'06" West 150.21 feet;
8) South 71°11'36" West 125.20 feet;
9) South 67°04'17" West 250.03 feet;
10) South 71°48'08" West 150.33 feet;
11) South 68°38'34" West 175.01 feet;
12) South 65°01'37" West 327.68 feet;
13) South 56°01'08" West 125.48 feet;
14) South 64°42'34" West 125.26 feet;
15) South 69°01'02" West 50.48 feet;
16) South 60°28'27" West 100.00 feet;

17) South 43°18'13" West 26.25 feet;
18) South 37°22'25" East 16.04 feet to a point of cusp on the northerly line of East Third Avenue;

Thence from a tangent that bears South 70°45'45" West, along a curve to the right, having a radius of 1382.61 feet, through a central angle of 21°21'34", an arc length of 515.43 feet to the southwest corner of said parcel and the POINT OF BEGINNING.

PARCEL 4

A parcel of tide and submerged lands situate in the City of Foster City, County of San Mateo, State of California, being a portion of that parcel described in "Exhibit B" in that certain Boundary Agreement recorded March 27, 1972 in Volume 6116, Page 528, Official Records of San Mateo County and re-recorded April 10, 1972 in Volume 6125, Page 419, Official Records of San Mateo County, more particularly described as follows:

BEGINNING at the most easterly corner of said parcel on the northwesterly right of way line of State Highway Route No. 92 approach to the San Mateo-Hayward Bridge; thence along the northeasterly line of said parcel North 51°17'17" West 60.13 feet; thence leaving said line and along the following eighteen (18) courses:

1) South 42°27'02" West 77.64 feet;
2) South 65°33'22" West 17.09 feet;
3) South 56°53'19" West 37.48 feet;
4) South 46°28'08" West 24.95 feet;
5) South 61°51'30" West 36.75 feet;
6) South 69°18'57" West 45.15 feet;
7) South 75°39'02" West 24.93 feet;
8) South 64°06'47" West 64.35 feet;
9) North 83°44'11" West 20.74 feet;
10) North 77°35'33" West 29.10 feet;
11) South 89°37'14" West 75.31 feet;
12) North 77°14'33' West 26.97 feet;
13) South 90°00'00" West 62.52 feet;
14) South 79°52'31" West 54.77 feet;
15) South 66°56'55" West 42.00 feet;
16) South 48°39'08" West 47.45 feet;
17) South 71°33'54" West 24.46 feet;
18) South 53°07'48" West 20.17 feet to a point of cusp on the westerly line of said parcel:

Thence from a tangent that bears South 04°44'38" East, along a curve to the right, having a radius of 458.00 feet, through a central angle of 11°40'36", an arc length of 93.34 feet to the southwesterly corner of said parcel; thence along the southeasterly boundary of said parcel the following twenty (20) courses:

1) North 53°35'28" East 17.55 feet;
2) North 24°46'31" East 28.64 feet;
3) North 53°07'48" East 25.00 feet;
4) North 71°33'54" East 26.88 feet;
5) North 48°39'08" East 49.95 feet;
6) North 66°56'55" East 25.54 feet;
7) North 79°52'31" East 42.66 feet;
8) South 90°00'00" East 50.50 feet;
9) South 77°14'33" East 27.17 feet;
10) North 89°37'14" East 75.70 feet;
11) South 77°35'33" East 25.60 feet;
12) South 83°44'11" East 41.25 feet;
13) North 64°06'47" East 75.58 feet;
14) North 75°39'02" East 22.19 feet;
15) North 69°18'57" East 52.38 feet;
16) North 61°51'30" East 48.77 feet;
17) North 46°28'08" East 27.59 feet;
18) North 56°53'19" East 27.46 feet;
19) North 65°33'22" East 24.17 feet;
20) North 71°00'00" East 0.52 feet to a point on said right of way;

Thence North 42°27'02" East 93.95 feet along said right of way to the most easterly corner of said parcel and the POINT OF BEGINNING.

PARCEL 5

A parcel of tide and submerged lands lying in the bed of San Francisco Bay, whether filled or unfilled, situate in the City of Foster City, County of San Mateo, State of California and more particularly described as follows:

BEGINNING at a point on the southeasterly line of that parcel described in "Exhibit B" in that certain Boundary Agreement recorded March 27, 1972 in Volume 6116, Page 528, Official Records of San Mateo County and re-recorded April 10, 1972 in Volume 6125, Page 419, Official Records of San Mateo County on the northwesterly right of way line of State Highway Route No. 92 approach to the San Mateo-Hayward Bridge; thence along said southeasterly line and right of way line North 42°27'02" East 93.95 feetto the easterly corner of said parcel; thence leaving said parcel continuing along said right of way line
North 42°27'02" 55.91 feet; thence leaving said right of way line South 49°52'26" East 442.65 feet; thence South 42°11'42" West 52.29 feet to the most northerly corner of that Parcel 1-C (amended) per that Final Order of Condemnation – No 121687 filed May 12, 1967 Superior Court of the State of California for the County of San Mateo, recorded in Volume 5306, Page 220, also being the most northerly corner of that parcel as described in "Exhibit C" in that Boundary Line and Settlement Agreement – B.L.A. No.

157 recorded July 28, 1977 in Volume 7558, Page 27, Official Records of said county thence South 42°11'42" West 7.71 feet along the northwest line of said parcels to the most westerly corner of said parcel as described in "Exhibit C"; thence leaving said line North 53°39'25" West 130.65 feet; thence North 47°31'26" West 242.97 feet; thence South 78°57'07" West 117.13 to said northwesterly right of way line and the POINT OF BEGININNG.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of San Francisco Bay.

PARCEL 6

A parcel of tide and submerged lands lying in the bed of San Francisco Bay, whether filled or unfilled, situate in the City of Foster City, County of San Mateo, State of California and more particularly described as follows:

All that parcel of land as described in "Exhibit C" in that Boundary Line and Settlement Agreement – B.L.A. No. 157 recorded July 28, 1977 in Volume 7558, Page 27, Official Records of said county.

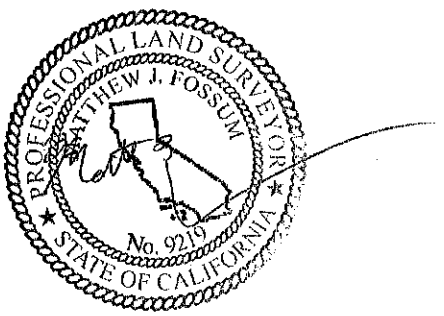
PARCEL 7

A parcel of tide and submerged lands lying in the bed of Belmont Slough, whether filled or unfilled, situate in the City of Foster City, County of San Mateo, State of California and more particularly described as follows:

Bounded on the northwest by the Ordinary High Water Mark of Belmont Slough as established by that Boundary Line Agreement – B.L.A.19 recorded September 20, 1962 in Volume 4295, Page 571, Official Records of San Mateo County; bounded on the northeast by southwest line of Parcel C-3 per that Title and Boundary Settlement Agreement – B.L.A. 159, recorded July 28, 1977 in Volume 7558, Page 440, Official Records of said county and having the bearing and distance South 38°19'35" East 653.39 feet; bounded on the southeast by a line lying parallel with and 30 feet southeasterly measured at right angles from said Ordinary High Water Mark; bounded on the south by the north line of Section 36, T4S, R4W, MDM.

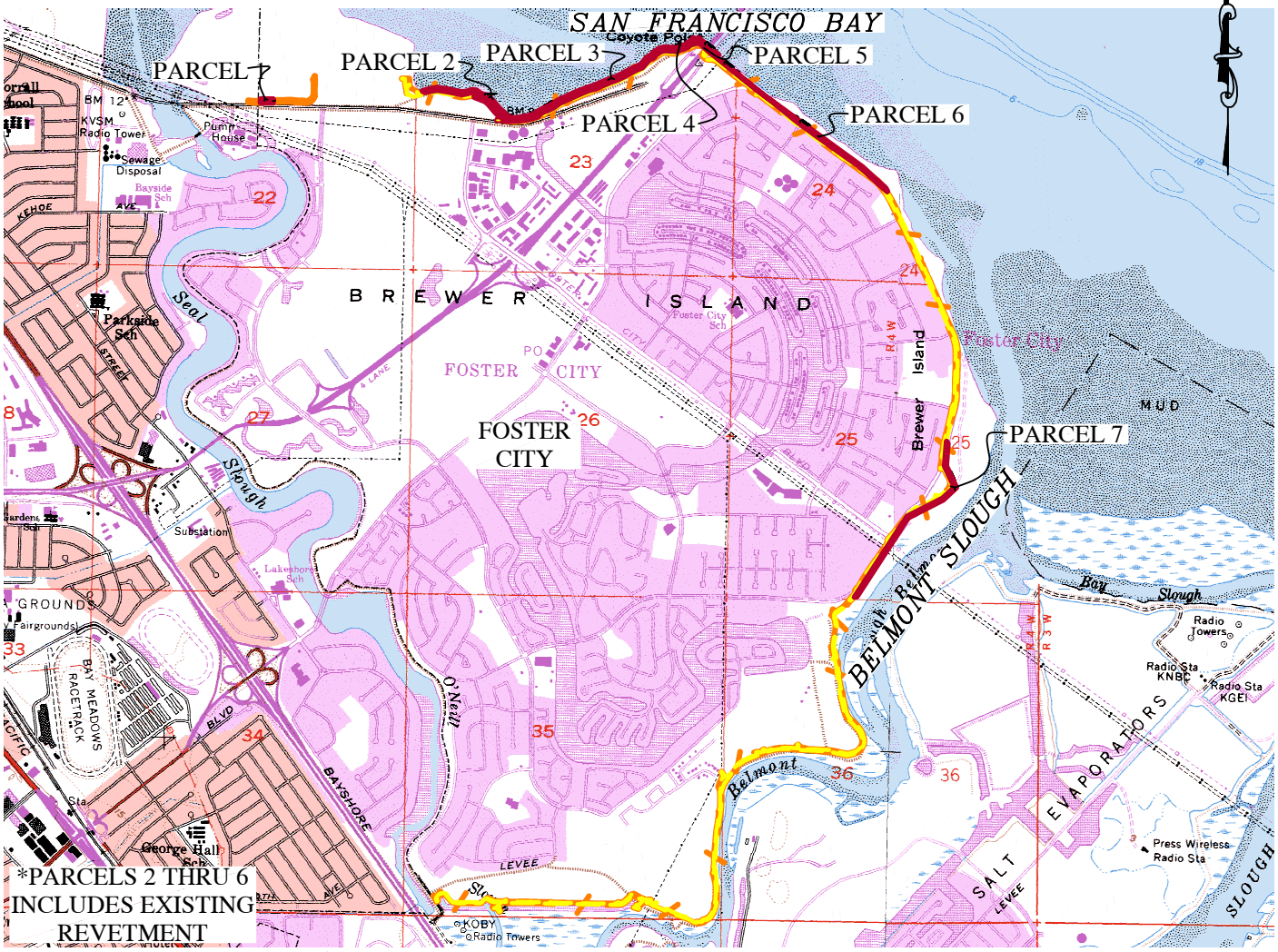
END OF DESCRIPTION

Prepared 3/08/2019 by the
California State Lands
Commission Boundary Unit



NO SCALE

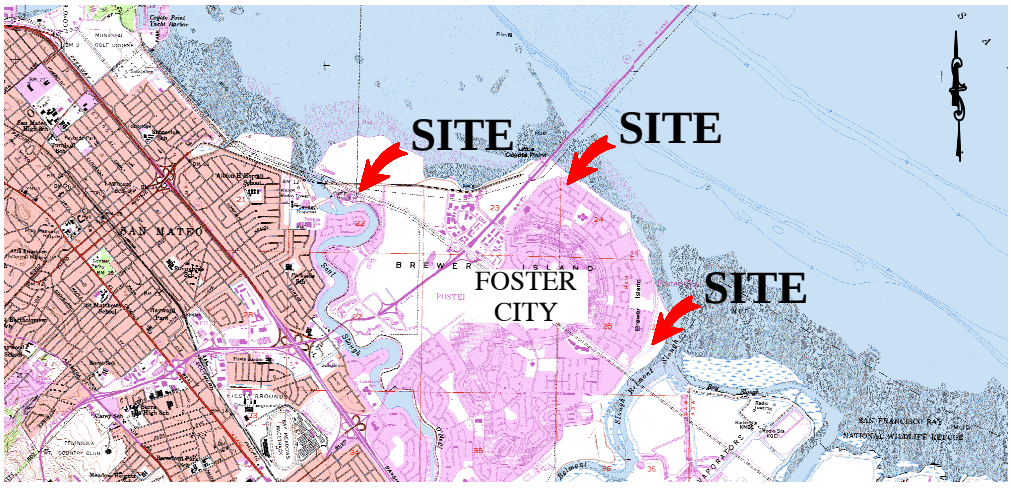
SITE



±6 ½ MILES OF LEVEE ALONG SAN FRANCISCO BAY & BELMONT SLOUGH, FOSTER CITY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

W 27221
CITY OF FOSTER CITY
GENERAL LEASE -
PUBLIC AGENCY USE
SAN MATEO COUNTY

MJF 3/08/19

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM

FOSTER CITY LEVEE PROTECTION PLANNING AND IMPROVEMENTS PROJECT
(W27221, State Clearinghouse No. 2016012012

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Foster City Levee Protection Planning and Improvements Project.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:[1]

> *In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.*

The lead agency certified an EIR, State Clearinghouse No. 2016012012, adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The segments of the Project area within the Commission's jurisdiction include levee segments one through four as depicted in Figure 1 of the Draft EIR. The full text of each mitigation measure, as set forth in the MMP prepared by the CEQA lead agency and listed in Table C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are <u>underlined</u>; and
- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

[1] The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)[2]	Difference Between CSLC MMP and Lead Agency MMP
AES-1. Alteration of Scenic Character and Scenic Vistas.	**AES-1**. Levee Segment 4	None
AIR-1 Fugitive Dust Emissions	**AIR-1** Levee Segments 1, 2, 3, 4	None
AIR-2 Exhaust Emissions	**AIR-2** Levee Segments 1, 2, 3, 4	None
AIR-3 Cumulatively Considerable Net Increase in any Criteria Pollutants	**AIR-3** Levee Segments 1, 2, 3, 4	None
BIO-1 Impacts to Salt marsh harvest mouse, Burrowing owl, Ridgway's rail, and California black rail	**BIO-1a** Levee Segments 1, 2, 3, 4	None
	BIO-1b Levee Segments 1, 2, 4	None
BIO-3 Impacts to Federally Protected Wetlands	**BIO-3**	None
BIO-4 Impacts from Vegetation Removal on Bird Nesting and Erosion	**BIO-4a**	None
	BIO-4b Levee Segments 2, 3	None
CULT-1 Adverse change in the Significance of an Archaeological Resource	**CULT-1** Levee Segments 1, 2, 3, 4	See MM CULT-1 below
CULT-2 Destruction of a Unique Paleontological Resource or Site or Unique Geologic Feature	**CULT-2** Levee Segments 1, 2, 3, 4	See MM CULT-2 below
CULT-3 Disturbance of Human Remains	**CULT-3** Levee Segments 1, 2, 3, 4	None
CULT-4 Adverse Change in the Significance of a Tribal Cultural Resource	**CULT-4** Levee Segments 1, 2, 3, 4	None
GEO-1 Damage to Levee Project Structures or Property from Unstable Soil Conditions During the Construction Period	**GEO-1 Implement MMs 2a through 2c** Levee Segments 1, 2, 3, 4	None
GEO-2 Damage to Levee Project Structures or Property from Unstable or Corrosive Soils During the Operation Period	**GEO-2 Implement MMs 2a through 2c** Levee Segments 1, 2, 3, 4	None
GEO-3 Seismic Shaking Hazards During the Operation Period for Levee Project Structures	**GEO-3 Implement MMs 2a through 2c** Levee Segments 1, 2, 3, 4	None

[2] See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

Potential Impact	Mitigation Measure (MM)[2]	Difference Between CSLC MMP and Lead Agency MMP
HAZ-1 Accidental Releases of Hazardous Materials and/or the Disturbance and Reuse of Soil Potentially Impacted with Hazardous Materials	**HAZ-1** Levee Segments 1, 2, 3, 4	None
HAZ-2 Interfere with the Use of Emergency Response/Evacuation Routes	**HAZ-2** Levee Segments 1, 2, 3, 4	None
HYD-1 Degradation of Water Quality in Belmont Slough, the Foster City Lagoon, and San Francisco Bay	**HYD-1a** Levee Segments 1, 2, 3, 4	None
	HYD-1b Levee Segments 1, 2, 3, 4	None
TRANS-1 Temporarily Disrupt Pedestrian and Bicycle Facilities	**TRANS-1 Bay Trail Closure Plan** Levee Segments 1, 2, 3, 4	None
REC-1 Temporarily Reduce the Availability and Access of the Bay Trail	**REC-1 Implement MM TRANS-1** Levee Segments 1, 2, 3, 4	None

Mitigation Measure CULT-1: Protection of archaeological resources encountered during construction. If archaeological materials are discovered during the course of construction, all work in the vicinity of the find shall stop. Project personnel shall not collect, move, or otherwise alter archaeological materials. A qualified professional archaeologist shall be retained to assess the find and make recommendations regarding treatment. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results of the analysis. Any recommendations by the qualified professional shall be incorporated into a treatment plan that takes into account the nature and scope of the find and is implemented by the project contractor.

California State Lands Commission (Commission) staff shall be notified of any California Register of Historic Resources- or National Register of Historic Resources-eligible resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of any artifacts or specimens including, but not limited to, those of an archaeological, cultural, historical, or paleontological nature from such lands must be approved by the Commission.

Mitigation Measure CULT-2: Protection of paleontological resources encountered during construction. If paleontological specimens are discovered during the course of construction, all work within 25 feet of the find shall stop, and a qualified paleontologist shall be retained to document the discovery and evaluate the nature and significance of the find. Upon completion of the assessment, the paleontologist shall prepare a report

documenting the methods and results, and provide recommendations for the treatment of the paleontological resources discovered. If needed, a treatment plan will be developed that takes into account the nature and scope of the find.

California State Lands Commission (Commission) staff shall be notified of any California Register of Historic Resources- or National Register of Historic Resources-eligible resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of any artifacts or specimens including, but not limited to, those of an archaeological, cultural, historical, or paleontological nature from such lands must be approved by the Commission.

ATTACHMENT C-1

Mitigation Monitoring Program Adopted by the

City of Foster City

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
A. AESTHETICS AND SHADE AND SHADOW				
AES-1: During the landscaping/wall enhancement, the floodwall adjacent to Shorebird Park (segment 4) and adjacent to Sea Cloud Park (segment 6) shall be treated with landscaping and/or variations of wall materials. The City of Foster City Public Works Department and/or the project team shall select drought-tolerant plantings compatible with the Foster City Climate Zone vegetation for this landscaping work suitable for the project site and consistent with the aesthetic characteristic of the surrounding area and reflective of existing plantings in the surrounding area.	City of Foster City Public Works Department and/or the project team: ▪ Select drought-tolerant and compatible plantings. ▪ Select wall materials. City of Foster City Planning Division: ▪ Review and approve selected native, drought-tolerant compatible plantings and wall materials. Project Contractor: ▪ Install selected and approved plantings and wall materials.	Prior to landscape planting. Prior to landscape planting. During construction.	City of Foster City Public Works Department: ▪ Conduct a site visit to verify that landscaping work and wall treatment is completed as required in Mitigation Measure AES-1.	
B. AIR QUALITY				
AIR-1: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement dust control requirements. The following controls shall be implemented at all construction sites and staging areas within the project to control dust production and fugitive dust. a. 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 non-toxic stabilizers to control dust; b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard; c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, park-	City of Foster City Public Works Department and/or project team: ▪ Include the Mitigation Measure AIR-1 requirements in the contract and performance standards for the project contractor. Project Contractor: ▪ Fully implement all air quality dust control measures as required by the BAAQMD and Foster City general construction practices.	Prior to execution of project contractor contract. Ongoing; throughout construction period.	City of Foster City Public Works Department and/or the project team: ▪ Make regular, periodic visits to the project site to ensure that all dust-control and emissions mitigation measures required by the BAAQMD and Foster City general construction practices.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
ing areas, and staging areas at construction sites; d. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; f. 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; g. Water trucks shall be present and in use at the construction site; h. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City in order to insure proper control of blowing dust for the duration of the project; i. Watering on public streets shall not occur; j. All vehicle speeds on unpaved roads shall be limited to 15 mph; k. 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; l. 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				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
provided for construction workers at all access points; m. 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; n. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer; o. 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; p. 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; and q. 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.				
AIR-2: The City of Foster City Public Works Department and/or the project team shall require the project contractor to comply with the following exhaust control requirements: a. If the project schedule is not reduced below current estimates, then the project contractor shall ensure that all off-road construction equipment with a 25 horsepower or greater diesel engine meets the	City of Foster City Public Works Department and/or project team: ▪ Include the Mitigation Measure AIR-2 requirements in the contract and performance standards for the project contractor. Project Contractor: ▪ Fully implement all exhaust control	Prior to execution of project contractor contract. Ongoing; throughout construction period.	City of Foster City Public Works Department: ▪ Make regular, periodic visits to the project site to ensure that all exhaust control mitigation measures required by Mitigation Measure AIR-2 are being implement-	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
U.S. EPA's Tier 3 or higher emission standards. b. If the project schedule is reduced below current estimates, then the project contractor shall ensure that all off-road construction equipment with a 25 horsepower or greater diesel engine meets the U.S. EPA's Tier 4 emission standards. c. The contractor shall submit to the City of Foster City Public Works Department and/or the project team a list of off-road construction equipment to be used on the project with the following information: equipment type and manufacturer; equipment identification number (required by CARB); year of engine manufacture; and engine Tier rating. d. The contractor shall also submit to the City of Foster City Public Works Department and/or the project team a Certification Statement that the contractor agrees to comply fully with the applicable Tier 3 or higher emission standards, as described above, for all off-road diesel equipment and acknowledges that a significant violation of this measure will constitute a material breach of contract.	measures required by Mitigation Measure AIR-2.		ed.	
AIR-3: Implement Mitigation Measure AIR-1and AIR-2.		See Mitigation Measure AIR-1 and AIR-2		
C. BIOLOGICAL RESOURCES				
BIO-1a: In order to minimize potential effects to salt marsh harvest mouse, Ridgway's rail, and California black rail and their habitats, the City of Foster City Public Works Department and/or project team shall implement the following:	City of Foster City Public Works Department and/or the project team: ▪ Ensure construction is completed within specified work windows in levee segments 4, 5, 6, 7, and 8, to the extent feasible.	Ongoing; throughout construction period.	City of Foster City Public Works Department: ▪ Verify compliance with Mitigation Measure BIO-1a by an on-site field visit prior to construc-	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
a. To the extent feasible, levee construction in segment 4 (south of Shorebird Park), 5, 6, 7, and 8 shall be conducted between September 1 and January 31 to avoid the nesting season of the Ridgway's rail. If construction work is proposed after January 31 or prior to September 1, protocol surveys for Ridgway's rail shall be conducted to determine the extent and location of nesting Ridgway's rail. Results of protocol breeding surveys shall be submitted to the U.S. Fish and Wildlife Service (USFWS) for a determination of whether work proposed within 700 feet of a Ridgway's rail nest (or the activity center of vocalizing Ridgway's rails) discovered during such surveys should be rescheduled to occur during the period from September 1 to January 31. Protocol surveys conducted between January 31 and September 1 shall include nesting surveys for California black rail. Results of surveys for California black rail shall be submitted to California Department of Fish and Wildlife (CDFW) to determine if setbacks are warranted to protect nesting California black rail. b. A qualified biological monitor(s) shall be present during all construction work taking place adjacent to salt marsh providing suitable habitat for Ridgway's rail, California black rail, and salt marsh harvest mouse in segments 4 (south end) 5, 6, 7 and 8. A biological monitor(s) shall also be present during construction work taking place adjacent to suitable foraging habitat for rails in the marsh adjacent to segment 1 and the marsh landward of levee segment 2 that provides potentially suitable winter foraging habitat for	▪ Engage biologist to prepare protocol surveys for Ridgway's rail and California black rail if construction must take place outside of specified work windows in levee segments 4, 5, 6, 7, and 8. ▪ If necessary per subsection (a), submit protocol surveys to the CDFW if construction takes place outside of specified work windows. ▪ Submit qualifications of the biological monitor to the USFWS for review and approval per subsection (b). ▪ Include the Mitigation Measure BIO-1a requirements in the contract and performance standards for the project contractor. Qualified Biological Monitor(s): ▪ Fully comply with applicable provisions of Mitigation Measure BIO-1a. Project Contractor: ▪ Erect exclusion fencing per subsection (c). ▪ Install appropriate erosion control measures in compliance with subsection (k). ▪ Control hazardous materials pursuant to subsection (l). ▪ Clean up site in compliance with subsection (m). ▪ Allow USFWS and CDFW access per subsection (n). ▪ Submit compliance report to USFWS and CDFW in compliance with subsection (o).	Prior to construction. Prior to construction. Prior to execution of project contractor contract. Prior to and during construction. Ongoing; throughout construction period. Prior to construction. During construction. During construction. Post construction. Prior to or during construction period. 60 days after completion of the work.	tion, and on-site visits during construction. ▪ Conduct regular site visits to ensure Qualified Biological Monitor fully implements applicable provisions of Mitigation Measure BIO-1a. ▪ Conduct regular site visits to ensure project contractor fully implements subsections (k), (l), (m), (n) and (o).	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
California black rail. The monitor(s) are to have demonstrated experience in monitoring sensitive resource issues on construction projects and knowledge of the biology of salt marsh harvest mouse, Ridgway's rail, and California black rail. Prior to the initiation of construction, qualifications of the prospective biological monitor(s) shall be submitted to the USFWS for review and approval. The monitor(s) will have the authority to halt construction, if necessary, when noncompliance actions occur. The biological monitor(s) shall be the contact person for any employee or contractor who might inadvertently kill or injure a listed species or anyone who finds a dead, injured, or entrapped listed species. c. Exclusion fencing shall be placed around the bayside of the defined work area prior to the start of construction activities to prevent salt marsh harvest mice from moving into affected areas. The fence shall be made of a material that does not allow harvest mice to pass through, and the bottom shall be buried so that mice cannot crawl under the fence. All supports for the exclusion fencing shall be placed on the landward side of the fence. d. Prior to commencement of construction activity each day in segments 1, 4 (south end), 5, 6, 7, and 8, and near marsh habitats landward of segment 2, the biological monitor(s) shall conduct a preconstruction survey of the anticipated construction zone for that day to ensure that salt				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
marsh harvest mice, Ridgway's rail or California black rail not present within the work area. e. The biological monitor(s) shall provide an endangered species training program to all personnel involved in project construction. At a minimum, the employee education program must consist of a brief presentation by persons knowledgeable about Ridgway's rail, California black rail, and salt marsh harvest mouse biology and legislative protection to explain concerns to contractors, their employees, and agency personnel involved with implementation of the project. The program shall include the following: a description of the three species and their habitat needs, any reports of occurrences in the action area; an explanation of the status of the Ridgway's rail, California black rail, and salt marsh harvest mouse and their protection under state or federal Endangered Species Acts; and a list of measures being taken to reduce impacts to these species during the work. Fact sheets containing this information shall be distributed to all involved in the training. f. If any rail or mouse species is observed at any time during construction, work will not be initiated or will be stopped immediately by the biological monitor(s) until the rail or mouse leaves the vicinity of the work area on its own volition and the USFWS is notified. If the rail or mouse does not leave the work area, work shall not be reinitiated until the USFWS is contacted and has				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
made a decision on how to proceed with work activities. The biological monitor(s) shall direct the contractor on how to proceed accordingly. The biological monitor(s) or any other persons at the site will not pursue, capture, handle or harass any rail or mouse observed. g. Biological monitor(s) shall ensure that construction work is scheduled to avoid extreme high tides when there is potential for salt marsh harvest mice to move to higher, drier grounds. All equipment will be staged on existing roadways away from the project site when not in use. h. All personnel and any equipment shall be required to stay within the designated work sites and access corridors to perform job-related tasks, and shall not be allowed to enter adjacent salt marsh wetlands, drainages, and habitat of listed species. Pets shall not be allowed in or near the work site. Firearms would not be allowed in or near the work sites. No intentional killing, harassment, or injury of wildlife shall be permitted. The work sites shall be maintained in a clean condition. All trash (e.g., food scraps, cans, bottles, containers, wrappers, cigarette butts, and other discarded items) shall be placed in closed containers and properly disposed of off-site on a daily basis. Trash cans shall be "bear proof" to reduce the amount of waste available to vermin and other predators. No fires shall be permitted in any of the work sites. i. Interpretative signage shall be				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
placed along the Bay Trail to encourage public awareness of wetlands ecology, endangered species life histories, species/predator interactions, and how predation of sensitive species can be minimized. Additional signs shall be placed at various points to remind users of the Bay Trail with respect to a prohibition on dogs within the project area during the construction phase of the project. j. Use of the Bay Trail along the shoreline shall be limited to pedestrians, bicycles, and battery operated wheelchairs or other similar mechanisms associated with access for disabled individuals. k. Appropriate erosion control materials such as silt fence and straw rolls will be installed as needed during construction activities within the project area. l. Hazardous materials used during the work period (e.g., fuels, lubricants, solvents, etc.) shall be controlled, cleaned up, and properly disposed of outside the tidal marsh areas. Refueling areas for any equipment will be located at upland sites outside of wetlands. m. After construction, a final clean-up would include removal of all refuse generated by the work. Vegetation would not be removed or disturbed in the clean-up process. n. If requested, before, during, or upon completion of construction, the contractor shall allow access by USFWS and CDFW personnel to the work areas to inspect effects, if any, of the actions on the salt marsh				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
harvest mouse, Ridgway's rail, or California black rail. o. The project proponent will submit a compliance report, prepared by the biological monitor(s), to the USFWS and CDFW within 60 days after completion of the work. This report will detail the dates the work occurred; information concerning the success of the actions in meeting the recommended mitigation measures; any effects on the salt marsh harvest mouse, and Ridgway's rail or California black rail; documentation of the worker environmental awareness training; and any other pertinent information.				
BIO-1b: In order to minimize potential effects to salt marsh harvest mouse, Ridgway's rail, and California black rail resulting from installation of sheet pile walls in areas adjacent to suitable habitats for these species, the City of Foster City Public Works Department, and/or the project team shall implement the following:				
a. To provide high tide refuge and cover for Ridgway's rail, California black rail, and salt marsh harvest mouse, vegetation shall be planted along the bayside of the sheet pile wall in all areas adjacent to salt marsh habitats where sheet pile is installed along the levee. A Detailed Vegetation Planting Plan shall be submitted to the USFWS within 60 days of the start of construction. The Detailed Vegetation Planting Plan shall include establishment of high marsh vegetation (including the planting of gum plant and pickleweed), monitoring period, performance criteria, and erosion control measures.	City of Foster City Public Works Department, and/or the project team ▪ Submit Detailed Vegetation Planting Plan to USFWS in compliance with subsection (a) ▪ Include the Mitigation Measure BIO-1b requirements in the contract and performance standards for the Project Contractor. Project Contractor ▪ Plant vegetation per subsection (a). ▪ Apply perching prevention devices to top of sheet pile wall per subsection (b).	Within 60 days of the start of construction. Prior to execution of project contractor contract. During construction.	City of Foster City Public Works Department: ▪ Conduct site visit to ensure project contractor's compliance with Mitigation Measure BIO-1b.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
b. Nixalite spikes or other USFWS-approved perching prevention device will be applied to the top of the sheet pile wall in all areas of the levee where sheet pile walls are installed adjacent to salt marsh habitats.				
BIO-1c: Pre-construction surveys for burrowing owls shall be conducted prior to any construction activity within each levee segment to ensure that there are no impacts to burrowing owls. If burrowing owls are present near the construction area, construction should not proceed in the vicinity of the active burrow. The pre-construction surveys will be conducted within two weeks prior to the onset of any ground disturbing activities. Surveys will be conducted by a qualified biologist following CDFW survey methods (CDFW, 2012) to establish the status of burrowing owl on the Project Site. If burrowing owls are found to occupy the property during the non-breeding season (September 1 to January 31), occupied burrows will be avoided by establishing a no-construction buffer zone around the burrow determined in consultation with CDFW. If avoidance is not possible a passive relocation effort may be instituted to relocate the individual(s) out of harm's way pursuant to a Burrowing Owl Exclusion Plan approved by CDFW. If burrowing owls are found to be present during the breeding season (February 1 to August 31), the project ground disturbing activities will follow the CDFW recommended avoidance protocol whereby occupied burrows will be avoided with a no-construction buffer zone determined in consultation with CDFW.	Qualified Biological Monitor(s): ▪ Conduct pre-construction surveys for burrowing owls.	Within two weeks prior to the start of ground-disturbing activities.	City of Foster City Public Works Department: ▪ Submit preconstruction surveys to the CDFW.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
BIO-2: Landscaping will be designed to enhance the wildlife value and aesthetic quality of undeveloped portions of the project site. Where appropriate, vegetation removed as a result of project activities will be replaced with native species which are of value to local wildlife, and native vegetation will be retained. If deemed necessary by the Public Works Department, weed management practices shall be implemented, including identification and removal of infestations of noxious weeds prior to construction, use of construction equipment and materials such as fill and erosion control devices that are known to be weed-free, power washing of construction vehicles to remove mud, dirt and vegetative material before working in relatively weed-free areas, and removal of invasive species from areas within the project boundary set aside for open space uses.	City of Foster City Public Works Department: ▪ Design landscaping to enhance wildlife value and aesthetic quality of undeveloped portions of project site. ▪ Determine and notify project contractor whether weed management practices and/are weed replacement are necessary to comply with Mitigation Measure BIO-2. Project Contractor: ▪ Replace vegetation removed with native species and retain existing native species to the extent practicable. ▪ Implement weed management practices if determined necessary by Public Works Department	Prior to construction. During construction.	City of Foster City Public Works Department: ▪ Verify project contractor compliance with Mitigation Measure BIO-2 by an on-site field visit prior to construction, and on-site visits during construction.	
BIO-3: The City of Foster City Public Works Department and/or the project team shall submit applications for a Section 404 Clean Water Act permit from the USACE and for a Section 401 water quality certification from San Francisco Bay RWQCB, required for the USACE permit to be valid. Under the 2050 Sea Level Rise scenario, impacts would be less than 0.5 acres (estimated at 0.48 acres) and the permit from USACE is anticipated to be a Nationwide Permit. Under the 2100 Sea Level Rise scenario, the impacts of greater than 0.5 acres (estimated at 1.15 acres) would require that the City obtain an Individual Permit from USACE. It is anticipated that applications for these permits would be submitted to the respective agencies sometime in early 2017. Appropriate wetland mitigation would be required by the USACE and	City of Foster City Public Works Department and/or the project team: ▪ Submit applications for a Section 404 Clean Water Act permit from the USACE and for a Section 401 water quality certification from San Francisco Bay RWQCB. ▪ Prepare a wetland mitigation plan in compliance with Mitigation Measure BIO-3.	Prior to issuance of site-specific demolition, grading, or building permits.	Not Applicable	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
RWQCB for impacts to the 0.48 acres of Palustrine Emergent Wetland under the 2050 Sea Level Rise scenario and for impacts to 1.15 acres of Palustrine Emergent Wetland under the 2100 Sea Level Rise Scenario. A wetland mitigation plan to mitigate impacts to jurisdictional areas shall be developed as part of the USACE and RWQCB permit process. USACE jurisdictional areas must be replaced at a minimum 1:1 ratio through wetland creation (preferably at a Mitigation Bank) to ensure that no net loss of acreage or functions and values to these areas occurs. The required ratio of replacement acreage to impacted acreage is decided by regulatory agencies on a project-specific basis based on the functions and values present on the project site, but requirement for a mitigation ratio of 2:1 (estimated at 0.96 acres for the 2050 Sea Level Rise scenario, and 2.3 acres for the 2100 Sea Level Rise scenario) would be likely. To offset the wetland impacts, the Permittee shall either: (1) purchase mitigation credits equivalent to 0.96 acres (2050 Sea Level Rise scenario) or 2.3 acres (2100 Sea Level Rise scenario) from an authorized mitigation bank; or (2) implement a Permittee-responsible mitigation plan and establish or restore wetlands within uplands along the levee alignment. If Permittee-responsible mitigation is implemented, a detailed mitigation plan shall be prepared that includes monitoring and reporting requirements, responsibilities, performance standards, reporting procedures, contingency plan, and plan to ensure long-term protection through real estate instruments or other available mechanisms, as appropriate. A Permittee-responsible mitigation plan shall consider means of incorporating an ecotone levee or				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
horizontal levee feature consisting of a gently sloped levee designed to mimic the transition from wetlands to uplands and that shall provide flood protection, wildlife habitat (including transitional and refugial habitat for Ridgway's rail and salt marsh harvest mouse) as well as water quality benefits. Such a levee may be feasible in areas adjacent to the City's Phase II Sedimentation Basin in the southern portion of segment 5 and the eastern portion of segment 6.				
BIO-4a: If feasible, construction work shall take place outside of the February 1 to August 1 breeding window for nesting birds. If construction is to be conducted during the breeding season, a qualified biologist shall conduct a pre-construction breeding bird survey in areas of suitable habitat within 15 days prior to the onset of construction activity. If bird nests are found, appropriate buffer zones shall be established around all active nests to protect nesting adults and their young from construction disturbance. Size of buffer zones should be determined in consultation with wildlife agency staff based on site conditions and species involved. Buffer zones shall be maintained until it can be documented that either the nest has failed or the young have fledged.	City of Foster City Public Works Department and/or the project team: ▪ Engage qualified biologist if construction work is to be conducted during nesting season. ▪ Include the Mitigation Measure BIO-4a requirements in the contract and performance standards for the project contractor. Qualified Biologist: ▪ Conduct pre-construction bird survey if work is to take place during breeding season. ▪ Establish appropriate buffer zones if nests are found. ▪ Monitor status of active nests. Project Contractor: ▪ Maintain buffer zones, if any, established by qualified biologist until it is documented that nest has failed or young have fledged.	Prior to construction. Prior to execution of project contractor contract. 15 days prior to start of construction activity. During construction During construction.	City of Foster City Public Works Department: ▪ Verify maintenance of buffer zones if established by an on-site field visit prior to construction, and on-site visits during construction.	
BIO-4b**:** Best Management Practices (BMPs) and all requirements as detailed in the Stormwater Pollution Prevention Plan (SWPPP) shall be implemented to control erosion and migration of sediments off-site. These requirements are necessary along the	City of Foster City Public Works Department and/or project team: ▪ Include the Mitigation Measure BIO-4b requirements in the contract and	Prior to execution of project contractor contract.		

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
bayside of the levee for the entirety of the shoreline of San Francisco Bay, Belmont Slough and O'Neill Slough, locations where wetlands are present along the landward side of the levee (e.g., portions of segment 2, segment 3 adjacent to wetlands south of Bridgeview Park, segments 5 and 6 adjacent to the City's Phase II Sedimentation Basin), and along existing wetlands (including mitigation wetlands) at the proposed staging area within the western and northern perimeter levee for the Phase II Sedimentation Basin, including a short section adjacent to the main Foster City Lagoon. Implementation of water quality controls shall be consistent with the BMPs requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction. Silt fence in combination with straw wattles shall be installed along both sides of the work areas mentioned above to protect adjacent wetlands from increased sedimentation. In addition, vegetation shall only be cleared from the permitted construction footprint. Areas cleared of vegetation, pavement, or other substrates shall be stabilized as quickly as possible to prevent erosion and runoff.	performance standards for the Project Contractor. Project Contractor: ▪ Implement all measures contained in the SWPPP and measures specified in Mitigation Measure BIO-4b. ▪ Clear vegetation only within the construction footprint. ▪ Stabilize all areas cleared of vegetation or pavement as quickly as possible to prevent erosion and runoff.	Prior to and during construction.	City of Foster City Public Works Department: ▪ Verify project contractor compliance by an on-site field visit prior to construction, and on-site visits during construction.	
D. CULTURAL RESOURCES				
CULT-1: Protection of archaeological resources encountered during construction. If archaeological materials are discovered during the course of construction, all work in the vicinity of the find shall stop. Project personnel shall not collect, move, or otherwise alter archaeological materials. A qualified professional archaeologist shall be retained to assess the find and make recommendations regarding treatment. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and re-	Project Contractor: ▪ Halt work and notify Foster City Public Works Department if archaeological remains are uncovered. ▪ Implement a treatment plan, if required. City of Foster City Public Works Department: ▪ Retain a qualified archaeologist to evaluate findings, should a discov-	During construction. Prior to execution of project contractor contract.	City of Foster City Public Works Department: ▪ Verify project contractor compliance with treatment plan, if required, by an on-site field visit during construction.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
sults of the analysis. Any recommendations by the qualified professional shall be incorporated into a treatment plan that takes into account the nature and scope of the find and is implemented by the project contractor.	ery occur. ▪ Include the Mitigation Measure CULT-1 requirements in the contract and performance standards for the project contractor			
CULT-2: Protection of paleontological resources encountered during construction. If paleontological specimens are discovered during the course of construction, all work within 25 feet of the find shall stop, and a qualified paleontologist shall be retained to document the discovery and evaluate the nature and significance of the find. Upon completion of the assessment, the paleontologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the paleontological resources discovered. If needed, a treatment plan will be developed that takes into account the nature and scope of the find.	Project Contractor: ▪ Halt work and notify Foster City Public Works Department if paleontological resources are encountered. ▪ Implement a treatment plan, if required. City of Foster City Public Works Department: ▪ Hire a qualified paleontologist to assess the significance of the find, if paleontological resources are encountered. ▪ Review and incorporate the recommendations into the project as feasible, if paleontological resources are encountered. ▪ Include the Mitigation Measure CULT-2 requirements in the contract and performance standards for the project contractor.	During construction. Prior to execution of project contractor contract.	Foster City Public Works and Community Development Departments: ▪ Verify project contractor compliance with treatment plan, if required, by an on-site field visit during construction.	
CULT-3: Protection of human remains encountered during construction. If human remains are encountered during construction, the following procedures shall be followed as required by PRC Section 5097.9 and Health and Safety Code Section 7050.5. If the coroner determines that the human remains are Native American, the Native American Heritage Commission shall be notified and a Most Likely Descendant shall be appointed by the commission. A qualified archaeologist, the City, and the Most Likely Descendant shall	Project Contractor: ▪ Halt work and notify Foster City Public Works Department if human remains are uncovered. City of Foster City Public Works Department: ▪ Contact the Native American Heritage Commission if human remains are uncovered and make all reasonable efforts to develop an	During construction.	Foster City Public Works and Community Development Departments: ▪ Verify compliance by an on-site field visit during construction.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects as outlined in the CEQA Guidelines (Section 15064.5(d)). The agreement shall take into account the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects.	agreement for the treatment of the remains pursuant to Mitigation Measure CULT-3. ▪ Include the Mitigation Measure CULT-3 requirements in the contract and performance standards for the project contractor.	Prior to execution of project contractor contract.		
CULT-4: Protection of tribal cultural resources. Consultation with Native American tribes shall continue through completion of the project, pursuant to PRC Section 21074. Native American consultants shall be invited to monitor construction activities within culturally sensitive areas and shall be given the right to inspect sites where human remains are discovered and to determine the treatment and disposition of the remains. The City shall provide requested information and updates to the Native American consultants during the life of the project, including copies of site records, survey reports, or other environmental documents.	City of Foster City Public Works Department and/or the project team: ▪ Fully comply with Mitigation Measure CULT-4.	During construction.	Not applicable	
E. SOILS, GEOLOGY, AND SEISMICITY				
GEO-1: Implement Mitigation Measures GEO-2a through GEO-2c.		See Mitigation Measures GEO-2a through 2c.		
GEO-2: Implementation of the following three-part mitigation measure would reduce impacts to Levee project structures or property related to unstable and corrosive soils to a less-than-significant level: GEO-2a: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement the following requirements. This mitigation measure requires that prior to the issuance of any grading or construction permits, a final geotechnical investigation report shall	City of Foster City Public Works Department: ▪ Include the Mitigation Measure GEO-2 requirements in the contract and performance standards for the project contractor. ▪ Retain a Licensed Geotechnical Engineer to peer review engineering plans. Project Contractor: ▪ Retain a qualified Geotechnical	Prior to execution of project contractor contract. Prior to issuance of any grading or construction permits.	City of Foster City Public Works Department: ▪ Review the final geotechnical investigation report and require amendments as necessary prior to approval to ensure compliance with Mitigation measure GEO-2a. ▪ Conduct site visits to verify that all measures	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
be prepared by a qualified Geotechnical Engineer or Certified Engineering Geologist and submitted to the City Building Inspection Division for review and approval. In addition to all other requirements, the final geotechnical investigation report shall specifically provide recommendations to minimize: ▪ The potential for adverse effects to existing utilities, pavements, or other structures caused by loading associated with temporary stockpiles. ▪ The potential damage to structures from total and differential settlement, including damage to or reduction in the flood protection provided by levees, conventional flood walls, and sheet pile walls. ▪ The potential for damage to flood control structures or pavements caused by expected seismic shaking. ▪ The potential for damage caused by soil expansion or corrosion to steel and concrete or any other material that may be placed in the subsurface. The recommendations shall incorporate the information obtained from the final soil analysis. ▪ All design measures, recommendations, design criteria, and specifications set forth in the final geotechnical investigation report shall be implemented as a condition of project approval. <u>GEO-2b</u>: A licensed Geotechnical Engineer, or their representative, shall be retained to review the geotechnical aspects of the design and engineering plans. The Geotechnical Engineer shall be allowed sufficient time to provide the project design team with comments prior to the issuance of the final plans. These comments shall be considered by the Geotechnical Engineer or Certified Engineer-	Engineer or Certified Engineering Geologist. ▪ Fully implement recommendations within the final geotechnical investigation report. Qualified Geotechnical Engineer or Certified Engineering Geologist: ▪ Prepare a final geotechnical investigation report pursuant to the requirements of Mitigation measure GEO-2a and submit to City Building Inspection Division for review and approval. ▪ Consider and incorporate into design and engineering plans comments from the Licensed Geotechnical Engineer if consensus is reached. ▪ If consensus is not reached with the Licensed Geotechnical Engineer, incorporate comments from the third-party Geotechnical Engineer. Licensed Geotechnical Engineer ▪ Review and comment on geotechnical aspects of the design and engineering plans prepared by the Qualified Geotechnical Engineer or Certified Engineering Geologist. ▪ Provide geotechnical observation and testing and supplemental recommendations as appropriate during all earthwork and foundation construction activities. ▪ Provide a letter to City Building Inspection Division regarding contractor compliance with project plans and specifications and with the recommendations of the final geotech-	During construction. Upon completion of project.	identified in the geotechnical reports are implemented. ▪ Ensure that engineering plans incorporate comments from the licensed geotechnical engineer. ▪ Retain second third party licensed geotechnical engineer to peer review plans if consensus is not reached. City Building Inspection Division: ▪ Review letter provided by licensed geotechnical engineer at end of construction	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
ing Geologist preparing the plans. Where consensus is reached between the two parties, the plans will be modified accordingly. If consensus is not reached, another third-party Geotechnical Engineer shall be retained to make the determination. GEO-2c: A licensed Geotechnical Engineer, or their representative, shall be retained to provide geotechnical observation and testing during all earthwork and foundation construction activities. The Geotechnical Engineer shall be allowed to evaluate any conditions differing from those encountered during the geotechnical investigation and shall provide supplemental recommendations, as necessary which the City of Foster City Public Works Department and/or the project team shall require the project contractor to implement. At the end of construction, the Geotechnical Engineer shall provide a letter regarding contractor compliance with project plans and specifications and with the recommendations of the final geotechnical investigation report and any supplemental recommendations issued during construction. The letter shall be submitted for review to the City Building Inspection Division.	nical investigation report and any supplemental recommendations issued during construction. Third party Geotechnical Engineer ▪ If consensus is not reached between the Qualified Geotechnical Engineer or Certified Engineering Geologist and the Licensed Geotechnical Engineer, peer review and comment on the geotechnical aspects of the design and engineering plans.	Prior to issuance of any grading or construction permits.		
GEO-3: Implement Mitigation Measures GEO-2a through GEO-2c.				
F. GREENHOUSE GAS EMISSIONS				
Implementation of the proposed project would not result in any significant greenhouse gas emissions impacts.				
G. HAZARDS AND HAZARDOUS MATERIALS				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
HAZ-1: Sampling and characterization of soil shall be performed prior to excavation for conventional flood wall construction, including in the area beneath the San Mateo Bridge/SR 92 where aerially deposited lead may be present in soil. The soil sampling and analytical methods shall be selected by a qualified environmental professional. The analytical results of the sampling shall be reviewed by the qualified environmental professional, then submitted to the City of Foster City Public Works Department and/or the project team and the appropriate regulatory agency, if necessary. The environmental professional shall provide recommendations to the project contractor and the City Fire Prevention Bureau, as applicable, for review and approval regarding soil/waste management, worker health and safety requirements, and regulatory agency notifications, in accordance with local, state, and federal requirements. Any recommendations by the environmental professional shall be required to be implemented by the project contractor. A Construction Risk Management Plan (CRMP) shall be prepared by the project contractor to protect construction workers, the public, and the environment from hazardous materials, including potential unknown contamination in the subsurface of the project site. The CRMP shall include the following: 1) Procedures for evaluating, handling, storing, testing and disposing of soil during project excavation activities. 2) A project-specific Health and Safety Plan that identifies hazardous materials to be used at the project site (e.g., oils, grease, and fuels) and hazardous materials identified in soil through sampling; describes required health and safety provisions and training for all workers	City of Foster City Public Works Department and/or project team: ▪ Include the information detailed in Mitigation Measure HAZ-1 in the contract and performance standards for the project contractor. ▪ Engage Qualified Environmental Professional. Qualified Environmental Professional: ▪ Conduct and analyze soil sampling on-site and submit to the City of Foster City Public Works Department and/or the project team and the appropriate regulatory agency. ▪ Provide recommendations to the project contractor and the Foster City Fire Department, as applicable for review and approval regarding soil/waste management, worker health and safety requirements, and regulatory agency notifications, in accordance with local, state, and federal requirements. Project Contractor: ▪ Implement any recommendations by the environmental professional. ▪ Prepare a CRMP and submit to the City of Foster City Public Works Department and/or the project team. ▪ Prepare and implement an Emergency Preparedness and Response Procedures Plan. ▪ Prepare a Site Remediation Plan if required by the regulatory oversight agency. ▪ Test engineering fill prior to being	Prior to execution of project contractor contract. Prior to issuance of site-specific demolition, grading, or building permits.	City of Foster City Public Works Department and/or project team: ▪ Monitor construction activity to ensure compliance with Mitigation Measure HAZ-1. City of Foster City Public Works Department and/or project team and appropriate regulatory oversight agency(ies): ▪ Review soil sampling. Foster City Fire Department: ▪ Review and approve any recommendations by the environmental professional. ▪ Review and approve the CRMP. ▪ Review emergency procedures plan and verify that emergency hazardous materials release response measures are appropriate and implementable. Foster City Fire Department and appropriate regulatory oversight agency(ies): ▪ Ensure Remediation Plan is submitted and approved prior to allowing affected work on site to resume.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
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. 3) A contingency plan that shall be applied if previously unknown hazardous materials are 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 oversight by the City or regulatory agency, as appropriate. 4) Designated personnel responsible for implementation of the CRMP.	brought on-site to ensure that it would not pose an unacceptable risk to human health or the environment. ▪ Prepare a Waste Disposal and Hazardous Materials Transportation Plan.			

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
The CRMP shall be submitted to the City of Foster City Public Works Department and/or the project team to be reviewed and approved by the Foster City Fire Prevention Bureau for review and approval prior to construction activities. In addition, the following measures shall be implemented: ▪ The contractor(s) shall designate storage areas suitable for hazardous materials delivery, storage, and waste collection. These locations must be as far away from catch basins, gutters, drainage courses, and water bodies as possible. All hazardous materials and wastes used or generated during project site development activities shall be labeled and stored in accordance with applicable local, state, and federal regulations. In addition, an accurate up-to-date inventory, including Safety Data Sheets (SDSs), shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident. ▪ All maintenance and fueling of vehicles and equipment shall be performed in a designated, bermed area, or over a drip pan that will not allow runoff of spills. Vehicles and equipment shall be regularly checked and leaks repaired promptly at an off-site location. Secondary containment shall be used to catch leaks or spills any time vehicle or equipment fluids are dispensed, changed, or poured. ▪ An Emergency Preparedness and Response Procedures shall be developed and implemented by the contractor(s) for emergency notification in the event of an accidental spill or other hazardous materials emergency during project site prep-				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
aration and development activities. These procedures shall include evacuation procedures, spill containment procedures, and required personal protective equipment, as appropriate, in responding to the emergency. The contractor(s) shall submit these procedures to the City for approval prior to demolition or development activities. ▪ If the presence of subsurface hazardous materials is confirmed at the project 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 developed by the project contractor, if determined necessary by the regulating agency(ies) and implemented. The Site Remediation 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 earthwork 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. ▪ Engineering fill shall be tested prior to being brought on-site to ensure that it would not pose an unacceptable risk to human health or the environment. Threshold criteria for acceptance of en-				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
gineered 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., ESLs). The engineered fill shall be characterized by representative sampling in accordance with the Environmental Protection Agency's (EPA) SW-846 Test Methods and in accordance with the Department of Substance Control's (DTSC) Information Advisory for Clean Imported Fill Material (2001 or most recent version). Fill testing shall be performed by a qualified environmental professional and demonstrated to meet the appropriate threshold criteria. The results of the sampling and waste characterization shall be submitted by the contractor(s) to the City prior to construction. ▪ The contractor shall prepare a Waste Disposal and Hazardous Materials Transportation Plan for City approval prior to construction activities and implement the Plan during demolition and construction activities. This plan shall describe the analytical methods for characterizing wastes and the handling methods required to minimize the potential for exposure, and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils. The required disposal method for contaminated materials, the approved disposal site, and specific routes used for transport of wastes to and from the project site shall be indicated. The Waste Disposal and Hazardous Materials Transportation Plan may be prepared as an addendum to the Waste Management Plan required by Chapter 15.44 (Ordi-				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
nance 523) of the Foster City Municipal Code. ▪ Hazardous materials and wastes generated during demolition, grading, and trenching activities, shall be removed, managed, and disposed of in accordance with applicable regulations. Compliance with existing regulations and implementation of Mitigation Measure HAZ-1 would ensure that impacts associated with potential releases of hazardous materials are less than significant.				
HAZ-2: Prior to the start of construction, the contractor shall develop a plan to ensure that sufficient access for emergency vehicles, including fire engines and trucks, and emergency evacuation is maintained at all times during construction activities at the fire access roads and evacuation routes impacted by construction of the proposed project, by constructing temporary bypasses adjacent to the fire access roads and evacuation routes. The contractor shall coordinate with the Foster City Police Department and Fire Department to design the temporary bypasses to ensure that they would allow appropriate emergency response and evacuation access. The contractor shall submit the plan to the Foster City Police Department and Fire Department for review and approval. The plan shall outline the notification procedures for informing the Foster City Police Department and Fire Department of when the existing fire access roads and evacuation routes would be blocked and replaced by the temporary bypasses. The plan shall also outline procedures for notification and placement of signage to inform the public of the temporary bypasses for emergency response/evacuation routes.	City of Foster City Public Works Department and/or project team: ▪ Include the requirements of Mitigation Measure HAZ-2 in the contract and performance standards for the project contractor. Project Contractor: ▪ Develop an access plan for emergency vehicles. ▪ Coordinate with the Foster City Police Department and Fire Department to design the temporary bypasses to ensure that they would allow appropriate emergency response and evacuation access.	Prior to construction.	Foster City Police Department and Fire Department: ▪ Review and approve the access plan for emergency vehicles.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
H. HYDROLOGY AND WATER QUALITY				
HYD-1a: The following measures shall be implemented to reduce the risk of spill/releases and disturbed soils from impacting water quality in nearby surface waters during construction activities: ▪ The contractor(s) shall designate storage areas suitable for material delivery, storage, and waste collection. These locations must be as far away from catch basins, gutters, drainage courses, and water bodies as possible. All hazardous materials and wastes used or generated during project site development activities shall be labeled and stored in accordance with applicable local, state, and federal regulations. In addition, an accurate up-to-date inventory, including Safety Data Sheets (SDSs), shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident. ▪ All maintenance and fueling of vehicles and equipment shall be performed in a designated bermed area, or over a drip pan that will not allow runoff of spills. Vehicles and equipment shall be regularly checked and have leaks repaired promptly at an off-site location. Secondary containment shall be used to catch leaks or spills any time vehicle or equipment fluids are dispensed, changed, or poured. ▪ Construction Best Management Practices (BMPs) related to stormwater pollution prevention shall be included and noted on the construction plans. ▪ The contractor shall implement a Stormwater Pollution Prevention Plan (SWPPP) prepared by a Qualified	City of Foster City Public Works Department and/or the project team: ▪ Include the requirements of Mitigation Measure HYD-1a and 1b in the contract and performance standards for the project contractor. ▪ Hire a Qualified SWPPP Developer to prepare a SWPPP, instruct construction personnel, and submit monitoring reports. ▪ Retain an independent monitor to conduct weekly inspections and provide written monthly reports to the Public Works Department to ensure compliance with the SWPPP. Project Construction Contractor/Site Supervisor: ▪ Implement all measures set forth in HYD-1a. ▪ Implement all measures set forth in the SWPPP. ▪ Implement monitoring program set forth in the SWPPP. ▪ Conduct regular meetings of site personnel to ensure SWPPP guidelines are observed by on-site personnel. ▪ Obtain applicable resource agency permits and approvals and comply with permit requirements regarding water quality. ▪ Implement any additional avoidance measures at the direction of applicable resource agencies if water quality monitoring indicates performance standards are not being	Prior to execution of project contractor contract. Prior to issuance of site-specific demolition, grading, or building permits. Throughout construction period. Throughout construction period.	Foster City Public Works Department: ▪ Review the SWPPP for consistency with the requirements of Mitigation Measure HYD-1a prior to approval. ▪ Conduct periodic inspections of the project site during wet and dry days to ensure compliance with the SWPPP. ▪ Review monthly reports to verify that construction activities are in compliance with the SWPPP.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
SWPPP Developer (QSD) and designed to reduce potential adverse impacts to surface water quality during the construction period. The SWPPP shall include the minimum BMPs required for the identified risk level. BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction. The SWPPP shall be designed to address the following objectives: 1) All pollutants and their sources, including sources of sediment associated with construction activity are controlled. 2) Where not otherwise required to be under a Regional Water Quality Control Board (RWQCB) permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated. 3) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity. 4) Stabilization BMPs installed to reduce or eliminate pollutants and erosion of exposed soil after construction are completed, which may include but would not be limited to: hydroseeding, planting of vegetation, installation of jute/burlap netting, and installation of swales in graded areas. 5) BMPs shall be designed to mitigate construction-related pollutants and at a minimum, include the following: a. Practices to minimize the contact	achieved.			

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm-water. The SWPPP shall specify properly-designed centralized storage areas that keep these materials out of the rain. b. Practices to reduce erosion of exposed soil which may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. c. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control (i.e., keeping sediment on the site). End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Ingress and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions. 6) The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections. Monitoring shall be required during the construction period for pollutants that may be present in the runoff that are “not visually detectable in runoff.”				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
▪ Site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. ▪ A Qualified SWPPP Practitioner (QSP), hired by the City of Foster City Public Works Department and/or the project team, shall be responsible for implementing BMPs at the site (a qualified professional that has the required professional credentials and has passed specific training courses in accordance with the Construction General Permit). The QSP shall also be responsible for performing all required monitoring, and BMP inspection, maintenance and repair activities. The QSP shall retain an independent monitor to conduct weekly inspections and provide written monthly reports to the City of Foster City Public Works Department and/or the project team to ensure compliance with the SWPPP. HYD-1b: The City of Foster City Public Works Department and/or the project team shall require the project contractor(s) to obtain applicable resource agency permits and approvals and comply with permit requirements to prevent impacts to water quality and demonstrate that water quality standards and/or waste discharge requirements are not violated. Permit requirements and avoidance measures that may be required by the U.S. Army Corp of Engineers (USACE) and/or the RWQCB may include, but not be limited to the following: ▪ Installing physical barriers (e.g., silt curtains) to prevent potential localized impacts to water quality (e.g., increase in				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
turbidity) from spreading to surrounding surface waters. ▪ Performing water quality monitoring, including sampling and analysis for turbidity and total suspended solids. At the direction of the applicable resource agency, the results of the water quality monitoring shall be compared to established performance standards. If water quality monitoring indicates that performance standards are not being achieved, additional avoidance measures (e.g., installation of additional silt curtains) shall be implemented until water quality monitoring indicates that performance standards are being achieved, which would mitigate the potential impacts to water quality to a less-than-significant level.				
I. LAND USE				
Implementation of the proposed project would not result in any significant land use impacts.				
J. NOISE AND VIBRATION				
NOISE-1: 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 (i.e., multiple complaints are received by the City or its contractors from nearby receptors), the contractor shall work with the City to develop and implement measures to minimize noise, including requiring an adjustment of truck arrival and/or unloading times and other feasible measures. City staff shall communicate regularly with those making the complaints to ensure that the issue is satisfactorily resolved. Mitigation Measure NOISE-1, which requires the development and implementation of a plan to minimize noise (including requiring an adjustment of truck arrival and/or	Project Contractor: ▪ Comply with City Ordinance requirements applicable to truck arrival and unloading operations ▪ If multiple complaints are received regarding noise associated with truck arrival or unloading operations, work with City of Foster City to develop and implement measures to minimize noise including requiring an adjustment of truck arrival and/or unloading times and other feasible measures.	Ongoing during construction.	City of Foster City Public Works Department: ▪ Monitor construction activity to ensure compliance with Mitigation Measure NOISE-1. ▪ Work with project contractor to develop measures to minimize noise if multiple complaints are received regarding noise associated with truck arrival or unloading operations.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
unloading times), would reduce the noise impact from hauling trucks on area roadways to a less-than-significant level.				
NOISE-2: Implement Mitigation Measure NOISE-1.		See Mitigation Measure NOISE-1.		
NOISE-3: The following five-part mitigation measure shall only apply to the construction activity along segments 5 through 8 and to any staging areas located within 60 feet of a sensitive receptor under the 2050 Sea Level Rise and the 2100 Sea Level Rise scenarios: NOISE-3a: Residences and landowners within 60 feet of proposed project (those near segment 5 through segment 8, and near any potential staging area) under the 2050 Sea Level Rise scenario and the 2100 Sea Level Rise scenario shall be provided with written notice of construction activity within at least seven days of before work begins. The notice shall state the date of planned construction activity in proximity to that landowner's property and the range of hours during which maximum noise levels are anticipated. NOISE-3b: For construction activities that will occur within 60 feet of levee segment 5 through segment 8 and near any potential staging area under the 2050 Sea Level Rise scenario and the 2100 Sea Level Rise scenario, City of Foster City shall require the project contractor to submit a Construction Noise Management Plan, prepared by a qualified acoustical consultant, that contains a set of site-specific noise attenuation measures, potentially including the use of mobile sound barriers within the project footprint, to further reduce construction noise impacts, for review and approval by the City of Foster City Public Works Department and/or the project team.	City of Foster City Public Works Department and/or the project team: ▪ Include the requirements of Mitigation Measure NOISE-3 in the contract and performance standards for the project contractor. Project Contractor: ▪ Work with the City of Foster City Public Works Department to notice surrounding residents and landowners regarding noise. ▪ Hire a qualified acoustical consultant to prepare and submit a Construction Noise Management Plan. ▪ Ensure compliance with construction times determined by City of Foster City. ▪ Locate all equipment in appropriate staging areas. ▪ Fully comply with Mitigation Measure NOISE-3.	Prior to execution of project contractor contract. Prior to and during construction.	City of Foster City Public Works Department and/or the project team: ▪ Review and approve a Construction Noise Management Plan. ▪ Monitor construction activity to ensure compliance with Mitigation Measure NOISE-3.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
NOISE-3c: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement the construction contractor to 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.				
NOISE-3d: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement. The construction activities shall be limited to the hours of 8:00 a.m. to 5:00 p.m. on weekdays unless deviations from this schedule are approved in advance by the City. Non-construction activities may take place between the hours of 7:00 a.m. and 8:00 a.m. on weekdays and 9:00 a.m. and 4:00 p.m. on Saturdays, but they must be limited to quiet activities and shall not include the use of engine-driven machinery. No actual construction activities may take place between 7:00 a.m. and 8:00 a.m.. Forklifts shall be allowed to operate on site between the hours of 5:00 p.m. and 6:30 p.m. on weekdays. The Planning Commission 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.				
NOISE-3e: The construction contractor, to minimize construction noise impacts, shall use all engine-driven construction vehicles,				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
equipment, and pneumatic tools that shall be required to use effective intake and exhaust mufflers; equipment shall be properly adjusted and maintained; and all construction equipment shall be equipped with mufflers in accordance with Cal/OSHA standards. NOISE-3f: The construction contractor shall place all stationary construction equipment such that emitted noise is directed away from sensitive receptors nearest the project site. NOISE-3g. The construction contractor 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. Additional factors that would reduce the severity of this impact include the short-term nature of the impact. Exposure of any given receptor to levels of construction noise greater than 100 dBA would be brief relative to the total duration of each construction activity (Table III-3) because the location where the work for each construction activity is occurring would move along the project alignment over time. More specifically, the construction work would move along the project alignment at a speed of approximately 100 feet per day. Therefore, each phase of the construction work would be expected to last no more than one day within 60 feet of any given residence.				
NOISE-4a: Implement Mitigation Measure NOISE-3c through NOISE-3g. Implementation of Mitigation Measure NOISE-4a would reduce the impacts of exposure of nearby receptors to vibration. In addition, the construction vibration would be temporary (no more one day at any given	City of Foster City Public Works Department and/or the project team: ▪ Include the requirements of Mitigation Measure NOISE-4 in the contract and performance standards for the project contractor.	Prior to execution of the project contract.	City of Foster City Public Works Department and/or project team: ▪ Review and approve vibration impact assessment. ▪ Monitor construction	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
residence located within 70 feet of the project site or within 40 feet of staging areas) because the location of work for each construction activity would move along the project alignment as construction progressed. Based on the short-term nature of the potential disturbance, this impact would be less than significant. NOISE-4b: A project contractor or other qualified professional shall be retained to prepare a vibration impact assessment (assessment) for residences located within 15 feet near levee segment 8 and within 5 feet of any potential staging area. The assessment shall take into account project-specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, and the soil characteristics in the project area, to determine whether project construction may cause damage to any of the structures located within 15 feet near levee segment 8 and within 5 feet of any potential staging area. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other qualified professional shall recommend design means and methods of construction to avoid the potential damage. The assessment and its recommendations shall be reviewed and approved by the City of Foster City. If there are no feasible design means and methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. The study will establish the baseline condition of these structures, including, but not limited to, the location and extent	Project Contractor: ▪ Fully comply with Mitigation Measure NOISE-3c through NOISE-3g. Project Contractor or qualified professional: ▪ Prepare a vibration impact assessment for residents outlined in Mitigation Measure NOISE-4b.	Prior to and during construction. Prior to construction.	activity to ensure compliance with Mitigation Measure NOISE-4.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
of any visible cracks or spalls. The study shall include written descriptions and photographs. The study shall be reviewed and approved by the City of Foster City Public Works Department and/or project team. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the City of Foster City Public Works Department and/or project team for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.				
K. TRAFFIC AND TRANSPORTATION				
TRANS-1: The project shall include a Bay Trail closure plan prepared by the project contractor and reviewed by the City of Foster City Public Works Department and/or the project team that includes recommended detour routes, appropriate signage and striping, and public outreach strategies, as detailed in this section for each phase of construction. A Transportation Management Plan approved by Caltrans, shall also be prepared. The Bay Trail closure plan shall be consistent with the standards and guidelines listed below, including the 2014 California MUTCD, the San Mateo County Resource Guide, the Bicycle Technical Guidelines, and Caltrans Standards. Additionally, the closure plan shall include a plan for Memorial Benches currently located along the Bay Trail that would include either re-locating or plac-	City of Foster City Public Works Department and/or the project team: ▪ Include the requirements of Mitigation Measure TRANS-1 in the contract and performance standards for the project contractor. Project Contractor: ▪ Prepare and implement Bay Trail closure plan that fully complies with 2014 California Manual on Uniform Traffic Control Devices and public outreach strategies as described in Mitigation Measure TRANS-1. ▪ Prepare a Transportation Management Plan. ▪ Prepare a Construction Management Plan that requires construction	Prior to execution of the project contract. Prior to and during construction.	City of Foster City Public Works Department and/or project team: ▪ Review and approve a Bay Trail closure plan and a Construction Management Plan. ▪ Review and approve a final construction-phasing plan if the project schedule is reduced below the shortest anticipated schedule. ▪ Monitor implementation of a Bay Trail closure plan. Caltrans:	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
ing them in the same location (depending on final design details and final wall heights). Recommended Bay Trail detour routes are shown on Figure V.K-5 for each phase of construction. Detours shall be determined to maintain connectivity of the Bay Trail through Foster City during construction while focusing on user safety. A Construction Management Plan shall also be submitted to the City of Foster City Public Works Department for review and approval prior to the start of construction and shall require construction and haul trucks to leave the project site by 4:00 p.m. on weekdays to avoid traveling during the peak evening commute period (4:00 to 6:00 p.m.) when traffic volumes are the highest. If the project schedule is reduced below the shortest anticipated schedule (1.5 years for the 2050 Sea Level Rise scenario and 2 years for the 2100 Sea Level Rise scenario) the contractor shall submit a final construction-phasing plan to the City of Foster City Public Works Department and/or the project team for review prior to the start of construction. The Bay Trail closure plan shall be implemented and monitored by the project contractor with oversight by the City of Foster City Public Works Department and/or the project team. The closure plan shall comply with 2014 California Manual on Uniform Traffic Control Devices provides standards, guidance, and support for bicycle considerations as part of the temporary traffic control during construction periods. Applicable standards and recommendations for bicycle and pedestrian detour routes include: ▪ Bicyclists shall not be led into direct conflicts with mainline traffic, work site vehicles, or equipment moving through or	and haul trucks to arrive at the project site no earlier than 9:00 a.m. and leave by 4:00 p.m. ▪ Submit a final construction-phasing plan if the project schedule is reduced below the shortest anticipated schedule (1.5 years for the 2050 Sea Level Rise scenario and 2 years for the 2100 Sea Level Rise scenario).		▪ Review and approve a Transportation Management Plan.	

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
around the temporary traffic control zone (Section 6D.101(CA)-01-E). ▪ Each detour shall be adequately marked with standard temporary route signs and destination signs (Section 6F.59-01). ▪ If used, the Pedestrian/Bicycle Detour sign shall have an arrow pointing in the appropriate direction (Section 6F.59-11). ▪ Where pedestrian routes are closed, alternate pedestrian routes shall be provided (Section 6G.05-08). ▪ When existing pedestrian facilities are disrupted, closed, or relocated in a temporary traffic control zone, the temporary facilities shall be detectable and shall include accessibility features consistent with the features present in the existing pedestrian facility (Section 6G.05-09). ▪ When the roadway width is inadequate for allowing bicyclists and motor vehicles to travel side by side, warning signs shall be used to advise motorists of the presence of bicyclists in the travel way lanes (Section 6D.101(CA)-01-D). ▪ Bicyclists and pedestrians shall not be exposed to unprotected excavations, open utility access, overhanging equipment, or other such conditions (Section 6G.05-05). ▪ When existing accommodations for bicycle travel are disrupted or closed in a long-term duration project, appropriate information and devices shall be used in order to replicate existing conditions for the needs and control of bicyclists through a temporary traffic control zone (Section 6G.05-06a). ▪ The closure plan shall be monitored and implemented by the City and shall also follow additional guidance provided by				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
the San Mateo County Resource Guide for the Education, Funding and Design of Pedestrian and Bicycle Facilities and the Bicycle Technical Guidelines prepared by the Santa Clara Valley Transportation Authority (VTA). The San Mateo County Resource Guide and VTA Bicycle Technical Guidelines reference the Manual on Uniform Traffic Control Devices and Caltrans standards as well as provide best practices. ▪ Long detour routing shall be avoided because of lack of compliance. ▪ Bicycle detour signs shall be used where a pedestrian/bicycle detour route has been established because of the closing of a bicycle facility to through traffic. Advance warning of the detour shall be placed at appropriate locations and clear wayfinding shall be implemented to enable bicyclists to continue safe operation along travel corridor. If the detour route for the pedestrian detour is the same as for the bicycle detour, then the combination pedestrian/bicycle detour sign (M4-9a) may be used. The City shall approve a contractor prepared detour plan. ▪ Post a sign giving bicyclists advance notice of all bike path closures and of all other detours of more than 0.5 mile. Two weeks' notice of path and roadway closures is recommended. ▪ A schematic of the detour route should be posted at the beginning of the detour if the detour route is complex or there are a lot of non-local users of the facility (e.g., a regional trail). ▪ All pedestrian and bicycle access points will be constructed to City standards, which are consistent with ADA regulations.				

Mitigation Measures	Implementation Responsibility/Action	Timing	Monitoring, Enforcement Responsibility/ Action	Date Completed/ Signature
Additional guidance and figures, including appropriate signage and striping for constructions zones and detour routes, is included in Appendix F. The closure plan shall also follow these recommendations for public outreach strategies: ▪ Brochures and Mailers – The brochures and mailers shall contain project-related information, including project description, construction schedule, and detour maps. They shall be printed out and disseminated to Bay Trail users before construction begins. ▪ Social Media – Use appropriate social media sites (Twitter, Facebook, etc.) to target user groups and alert them of the trail closure and detour routes. Work with cycling and pedestrian advocacy groups to craft the most effective messaging. Press Release – Issue press releases for radio, television, and print media for the planned closures and proposed detours.				
L. RECREATION				
REC-1: The Public Works Department shall post signage giving advance notice to recreationists at the locations where water-related recreational activities may be impacted by closures or result in limited access to the waterfront. Additionally, implement Mitigation Measure TRANS-1.	City of Foster City Public Works Department: ▪ Post signage at locations where water-related recreational activities may be impacted by closures or limited access to the waterfront.	Prior to construction.	City of Foster City Public Works Department: ▪ Monitor implementation of Bay Trail closure plan.	

EXHIBIT D – FOSTER CITY LEVEE PROTECTION PLANNING AND IMPROVEMENTS PROJECT

CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (Commission), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use, to the City of Foster City (City), for use of sovereign land associated with the proposed Foster City Levee Protection Planning and Improvements Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)[1] The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

The Commission is a responsible agency under CEQA for the Project because the Commission must approve a lease for the Project to go forward and because the City, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The City analyzed the environmental impacts associated with the project in a Final Environmental Impact Report (EIR) (State Clearinghouse No. 2016012012) and, in May 8, 2017, certified the EIR and adopted a Mitigation Monitoring Program (MMP) and Findings, and a Statement of Overriding Considerations.

The Project involves improvements to approximately 43,000 linear feet (8 miles) of an existing levee system surrounding the City along the San Francisco Bay front. The purpose of the Project is to provide flood protection in accordance with updated Federal Emergency Management Agency (FEMA) guidelines and retain FEMA accreditation for the City's existing levee system. The improved levee system will be designed to adapt to future sea-level rise while maintaining public access along the levee system and protections for sensitive species. Levee improvements would include a combination of three different levee types: 1) sheet pile floodwall, 2) earthen levee, 3) conventional floodwall.

[1] CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

The City determined that the Project could have significant environmental effects on the following environmental resources:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils/Seismicity
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise and Vibration
- Recreation
- Transportation and Traffic

Of the 10 resources areas noted above, Project components within the Commission's jurisdiction could have significant environmental effects on nine of the resource areas, as follows:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils/Seismicity
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Recreation
- Transportation and Traffic

In certifying the Final EIR and approving the Project, the City imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant for most resource areas. However, even with the integration of all feasible mitigation, the City concluded in the EIR that some of the identified impacts would remain significant. As a result, the City adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The City determined that, after mitigation, the Project may still have significant impacts on Aesthetics and Noise. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts the Statement of Overriding Considerations set forth in this exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the Commission will be called on to carry out or approve. In order to ensure the identified

mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Planning and Management.

3.0 FINDINGS

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the City for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. The segments of the Project area within the Commission's jurisdiction include levee segments one through four as depicted in Figure 1 of the Draft EIR. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the Commission's approval of a General Lease – Public Agency Use, which would allow the proposed levee improvements, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

(1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.[2]

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

[2] See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Final EIR.

A. SUMMARY OF FINDINGS

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Agricultural Resources
- Population and Housing
- Utilities and Service Systems

The EIR subsequently identified the following impacts as Less Than Significant:

- Greenhouse Gas Emissions
- Land Use
- Mineral Resources
- Public Services

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified in Table 1 were determined in the Final EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

However, even with the integration of all feasible mitigation, the City concluded in the EIR that the other identified potentially significant impacts will remain significant. Table 1 identifies those impacts that the City determined would be, after mitigation, significant and unavoidable (SU). Impact NOISE-3 does not occur within the Commission's jurisdiction.

Table 1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos.	
	LTSM	SU
Aesthetics		AES-1
Air Quality	AIR-1	
	AIR-2	
	AIR-3	
Biological Resources	BIO-1	
	BIO-3	
	BIO-4	

Cultural Resources	CULT-1	
	CULT-2	
	CULT-3	
	CULT-4	
Geology/Soils/Seismicity	GEO-1	
	GEO-2	
	GEO-3	
Hazards and Hazardous Materials	HAZ-1	
	HAZ-2	
Hydrology and Water Quality	HYD-1	
Noies and Vibration		NOISE-3
Recreation	REC-1	
Transportation and Traffic	TRANS-1	

As a result, the Commission adopts the Statement of Overriding Considerations for AES-1 set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION (LTSM)

The impacts identified below were determined in the Final EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant.

1. AIR QUALITY

CEQA FINDING NO. AIR-1

Impact: **Impact AIR-1. Fugitive Dust Emissions**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in fugitive dust emissions generated during project construction; in particular, for PM_{10} and $PM_{2.5}$.

Implementation of MM AIR-1 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM AIR-1:** The City of Foster City Public Works Department and/or the Project team shall require the project contractor to implement dust requirements. The control measures listed in Attachment C-1 of Exhibit C-1 for MM AIR-1 shall be

implemented at all construction sites and staging areas within the Project to control dust production and fugitive dust.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. AIR-2

Impact: **Impact AIR-2. Exhaust Emissions**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in exhaust emissions generated during project construction, which may result in significant air quality impacts.

Implementation of MM AIR-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM AIR-2: The City of Foster City Public Works Department and/or the Project team shall require the Project contractor to comply with the exhaust control requirements listed in MM AIR-2 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. AIR-3

Impact: **Impact AIR-3. Cumulatively Considerable Net Increase in any Criteria Pollutants**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in a cumulatively considerable net increase of criteria pollutants for which the Project region is in nonattainment under an applicable federal or state ambient air quality standard.

Implementation of MM AIR-3 has been incorporated into the Project to reduce this impact to a less than significant level.

MM AIR-3: Implement MMs AIR-1 and AIR-2.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

2. BIOLOGICAL RESOURCES

CEQA FINDING NO. BIO-4	
Impact:	**Impact BIO-1.** Impacts to Salt marsh harvest mouse, Ridgway's rail, Burrowing owl, and California black rail.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in significant impacts to special status animal species, including the Burrowing owl, Ridgway's rail, Salt marsh harvest mouse, and California black rail.

Implementation of MMs BIO-1a, BIO-1b, and BIO-1c has been incorporated into the Project to reduce this impact to a less than significant level.

MM BIO-1a: In order to minimize potential effects to Salt marsh harvest mouse, Ridgway's rail, and California black rail and their habitats, the City of Foster City Public Works Department and/or Project team shall implement the measures listed in MM BIO-1a in Attachment C-1 of Exhibit C-1.

MM BIO-1b: In order to minimize potential effects to salt marsh harvest mouse, Ridgway's rail, and California black rail resulting from installation of sheet pile walls in areas adjacent to suitable habitats for these species, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM BIO-1b in Attachment C-1 of Exhibit C-1.

MM BIO-1c: In order to minimize potential effects to Burrowing owl, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM BIO-1c in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. BIO-5

Impact: **Impact BIO-3. Impacts to Federally Protected Wetlands**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in permanent impacts to federally protected wetlands.

Implementation of MM BIO-3 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM BIO-3:** In order to minimize potential effects to federally protected wetlands, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM BIO-3 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. BIO-6

Impact: **Impact BIO-4. Impacts from Vegetation Removal on Bird Nesting and Erosion**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Vegetation removal activities proposed as part of the Project have the potential to result in adverse impacts to bird nesting and erosion.

Implementation of MMs BIO-4a and BIO-4b has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM BIO-4a:** In order to minimize potential effects to bird nesting and erosion from vegetation removal, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM BIO-4a in Attachment C-1 of Exhibit C-1.
>
> **MM BIO-4b**: In order to minimize potential effects to bird nesting and erosion from vegetation removal, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM BIO-4b in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

3. CULTURAL RESOURCES

CEQA FINDING NO. CULT-7

Impact: **Impact CULT-1. Adverse change in the Significance of an Archaeological Resource**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Grading and other ground disturbance activities proposed as part of the Project have the potential to result in adverse impacts to archaeological resources.

Implementation of MM CULT-1 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM CULT-1:** In order to minimize potential effects to archaeological resources, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM CULT-1 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. CULT-8

Impact: **Impact CULT-2. Destruction of a Unique Paleontological Resource or Site or Unique Geologic Feature**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction and grading activities proposed as part of the Project have the potential to result in direct or indirect destruction of unique paleontological resources or sites or unique geologic features.

Implementation of MM CULT-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM CULT-2: In order to minimize potential effects to unique paleontological or geologic features, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM CULT-2 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. CULT-9

Impact: **Impact CULT-3. Disturbance of Human Remains**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction and grading activities proposed as part of the Project have the potential to result in direct or indirect disturbance of human remains, including those interred outside of formal cemeteries.

Implementation of MM CULT-3 has been incorporated into the Project to reduce this impact to a less than significant level.

MM CULT-3: In order to minimize potential effects to human remains, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM CULT-3 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. CULT-10

Impact: **Impact CULT-4. Adverse Change in the Significance of a Tribal Cultural Resource**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction and grading activities proposed as part of the Project have the potential to result in adverse impacts to tribal cultural resources.

Implementation of MM CULT-4 has been incorporated into the Project to reduce this impact to a less than significant level.

MM CULT-4: In order to minimize potential effects to Tribal cultural resources, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM CULT-4 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

4. GEOLOGY, SOILS, SEISMICITY

CEQA FINDING NO. GEO-11

Impact: **Impact GEO-1. Damage to Levee Project Structures or Property from Unstable Soil Conditions During the Construction Period**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in damage to levee Project structures or property, which could result from unstable soil conditions during the construction period.

Implementation of MM GEO-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM GEO-1: Implement MMs GEO-2a through GEO-2c as contained in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. GEO-12

Impact: **Impact GEO-2. Damage to Levee Project Structures or Property from Unstable or Corrosive Soils During the Operation Period**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in damage to levee Project structures or property from unstable or corrosive soils during the operation period.

Implementation of MM GEO-2 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM GEO-2:** Implement MMs GEO-2a through GEO-2c as contained in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. GEO-12

Impact: **Impact GEO-3. Seismic Shaking Hazards During the Operation Period for Levee Project Structures**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Levee Project structures could be subject to seismic shaking hazards during the operation period.

Implementation of MM GEO-3 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM GEO-3:** Implement MMs GEO-2a through GEO-2c as contained in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

5. HAZARDS AND HAZARDOUS MATERIALS

CEQA FINDING NO. HAZ-14

Impact: **Impact HAZ-1. Accidental Releases of Hazardous Materials and/or the Disturbance and Reuse of Soil Potentially Impacted with Hazardous Materials**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Levee project construction period activities could result in accidental releases of hazardous materials and/or the disturbance and reuse of soil potentially impacted with

hazardous materials that could result in impacts to construction workers, the public, and/or the environment.

Implementation of MM HAZ-1 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM HAZ-1:** Implement the measures of MM HAZ-1 as contained in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. HAZ-15

Impact: **Impact HAZ-2. Interfere with the Use of Emergency Response/Evacuation Routes**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the improved levee could interfere with use of the emergency response/evacuation routes.

Implementation of MM HAZ-2 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM HAZ-2:** In order to minimize potential effects to emergency response and evacuation routes, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM HAZ-2 in Attachment C-1 of Exhibit C-1.
>
> LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

6. HYDROLOGY AND WATER QUALITY

CEQA FINDING NO. HYD-16

Impact: **Impact HYD-1. Degradation of Water Quality in Belmont Slough, the Foster City Lagoon, and San Francisco Bay**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the proposed Levee Project could result in degradation of water quality in Belmont Slough, the Foster City Lagoon, and San Francisco Bay.

Implementation of MMs HYD-1a and HYD-1b has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM HYD-1a:** Implement the measures of MM HYD-1a as contained in Attachment C-1 of Exhibit C-1.
>
> **MM HYD-1b:** Implement the measures of MM HYD-1b as contained in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

7. Traffic and Transportation

CEQA FINDING NO. TRANS-17	
Impact:	**Impact TRANS-1. Temporarily Disrupt Pedestrian and Bicycle Facilities**
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Levee construction activities would temporarily disrupt pedestrian and bicycle facilities for the Bay Trail.

Implementation of MM TRANS-1 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM TRANS-1:** Implement the measures for MM TRANS-1 listed in Attachment C-1 of Exhibit C-1 for preparation of a Bay Trail Closure Plan.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

8. Recreation

CEQA FINDING NO. REC-18

Impact: **Impact REC-1. Temporarily Reduce the Availability and Access of the Bay Trail**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the Levee Project would temporarily reduce the availability and access of the Bay Trail and water-dependent recreation activities.

Implementation of MM REC-1 and MM TRANS-1 has been incorporated into the Project to reduce this impact to a less than significant level.

> **MM REC-1:** In order to minimize potential effects to public access on the Bay Trail, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM REC-1 and MM TRANS-1 in Attachment C-1 of Exhibit C-1.
>
> LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS.

The following impacts were determined in the Final EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

1. AESTHETICS

CEQA FINDING NO. AES-1

Impact: **Impact AES-1. Alteration of Scenic Character and Scenic Vistas**.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The increased elevation of the levee would alter the existing visual character and may adversely impact scenic vistas of the San Francisco Bay from Shorebird Park (levee segment 4).

Implementation of MM AES-1 has been incorporated into the Project and would reduce the severity of Impact AES-1, although not necessarily to a less than significant level.

> **MM AES-1:** In order to minimize potential effects to scenic vistas and character, although not necessarily to a less than significant level, the City of Foster City Public Works Department, and/or the Project team shall implement the measures listed in MM AES-1 in Attachment C-1 of Exhibit C-1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

E. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society* v. *City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

> *When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible…. At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations…make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].*

The four alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

1) No Project/No Build Alternative
2) Existing Levee Footprint 2050 Sea Level Rise Alternative
3) Horizontal Levee 2050 Sea Level Rise Alternative
4) FEMA Freeboard Alternative

As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the EIR, the FEMA Freeboard Alternative is considered the environmentally superior alternative because the environmental impacts associated with its implementation would be the lowest of all the scenarios examined (including the

proposed Project scenarios) and this alternative would meet all Project objectives with the exception of providing protection from anticipated sea level rise.

The City independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City's independent judgment as to alternatives. The City found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. The four CEQA alternatives proposed and evaluated in the EIR were rejected as being infeasible for reasons provided in the City's Findings Regarding Alternatives (Attachment D-1).

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

3.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the City and Commission have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under one resource area invoving lands under the Commission's jurisdiction: Aesthetics (see Table 2). This impact is specifically identified and discussed in more detail in the Commission's CEQA Findings and in the City's Final EIR. While the Commission has required all feasible

mitigation measures, this impact remains significant for purposes of adopting this Statement of Overriding Considerations.

Table 2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Air Quality	
AES-1 Alteration of Scenic Character and Scenic Vistas	The increased elevation of the levee would alter the existing visual character and may adversely impact scenic vistas of the San Francisco Bay from Shorebird Park (levee segment 4). While adherence to the identified mitigation measure would reduce this impact, it would remain significant and adverse. There are no other feasible mitigation measures that are available to offset this significant impact. Therefore, the Aesthetic impacts of the proposed Project would remain significant.

B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. The City as lead agency found three expected benefits from the Project and they include:

a) Retain FEMA Accreditation and Adaptibility to Sea Level Rise
b) Reduce Risk of Harm to Life and Property in Foster City
c) Preserve, Restore, and Enhance Wildlife Habitat

Attachment D-1, City's Statement of Overriding Considerations, provides details of these project benefits.

C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

D. CONCLUSION

The Commission has considered the Final EIR and all of the environmental impacts described therein, including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the Final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level. Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.

ATTACHMENT D-1

CITY OF FOSTER CITY
Findings and
Statement of Overriding Considerations

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:

- Aesthetics and Shade and Shadow
- Air Quality
- Biological Resources
- Cultural Resources
- Soils, Geology, and Seismicity
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise and Vibration
- Traffic and Transportation
- Recreation

The Final EIR identified potentially significant environmental effects in the areas of: Aesthetics and Shade and Shadow; Air Quality; Biological Resources; Cultural Resources; Soils, Geology, and Seismicity; Hazards and Hazardous Materials; Hydrology and Water Quality; Noise and Vibration; Traffic and Transportation; and Recreation. These topics are discussed below. The mitigation measures described below will 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 two significant impacts to levels that are less than significant.

As described in greater detail below, after implementation of all feasible mitigation measures, the project will result in the following two significant and unavoidable impacts, which the Planning Commission finds will be overridden due to specific considerations and project benefits that are described later in this document:

- Aesthetics and Shade and Shadow — The increased elevation of the levee would alter the existing visual character and may adversely impact scenic vistas of the San Francisco Bay from Shorebird Park (segment 4) under the two project scenarios and adversely impact scenic vistas of the Belmont Hills from Sea Cloud Park (segment 6) under the 2100 Sea Level Rise project scenario (Impact AES-1).
- Noise and Vibration — Construction of the proposed project could result in the exposure of nearby sensitive receptors, such as residences, schools, hospitals, and retirement homes, to temporary noise levels that would conflict with the City of Foster City Municipal Code regulations, and could generate substantial increases in noise levels for intermittent periods when certain construction activities occur (e.g., pile driving) (Impact NOISE-3).

1. Aesthetics and Shade and Shadow

a. Effect on Visual Character and Scenic Vistas

Impact AES-1: The increased elevation of the levee would alter the existing visual character and may adversely impact scenic vistas of the San Francisco Bay from Shorebird Park (segment 4) under the two project scenarios (2050 Sea Level Rise and 2100 Sea Level Rise) and scenic vistas of the Belmont Hills from Sea Cloud Park (segment 6) under the 2100 Sea Level Rise project scenario.

Mitigation Measure AES-1: During the landscaping/wall enhancement, the floodwall adjacent to Shorebird Park (segment 4) and adjacent to Sea Cloud Park (segment 6) shall be treated with landscaping and/or variations of wall materials. The City of Foster City Public Works Department and/or the project team shall select drought-tolerant plantings compatible with the Foster City Climate Zone vegetation for this landscaping work suitable for the project site and consistent with the aesthetic characteristic of the surrounding area and reflective of existing plantings in the surrounding area.

Finding: The EIR preparers identified Mitigation Measure AES-1 as a potentially viable measure to reduce Impact AES-1 to a less-than-significant level. However, this measure would not be sufficient to reduce the project's impact on altering the scenic vistas of the San Francisco Bay from Shorebird Park or the scenic vistas of the Belmont Hills from Sea Cloud Park. The Commission further finds that there are no other feasible mitigation measures that would reduce this impact to a less-than-significant level. Therefore, this impact remains 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 specific environmental, safety, legal, social, or other benefits of the project outlined in Section E. Statement of Overriding Considerations.

2. Air Quality

a. Effect on Construction-Period Air Quality from Fugitive Dust

Impact AIR-1: Fugitive dust emissions generated during project construction may result in significant air quality impacts.

Mitigation Measure AIR-1: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement dust control requirements. The following controls shall be implemented at all construction sites and staging areas within the project to control dust production and fugitive dust.

a. 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 non-toxic stabilizers to control dust;

b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;

c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;

d. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites;

e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;

f. 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;

g. Water trucks shall be present and in use at the construction site;

h. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City in order to insure proper control of blowing dust for the duration of the project;

i. Watering on public streets shall not occur;

j. All vehicle speeds on unpaved roads shall be limited to 15 mph;

k. 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;

l. 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;

m. 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;

n. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer;

o. 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;

p. 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; and

q. 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.

Finding: The Commission finds that these measures are feasible and will avoid or substantially lessen impacts related to fugitive dust emissions generated during project construction to a less-than-significant level. Specifically, the Commission finds that implementation of AIR-1 would mitigate average daily emissions of PM_{10} and $PM_{2.5}$ such that they would not exceed the BAAQMD significance thresholds. Consequently, construction related emissions of criteria pollutants would be considered less-than-significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact AIR-1 to a less-than-significant level.

b. Effect on Construction-Period Air Quality from Exhaust Emissions

Impact AIR-2: Exhaust emissions generated during project construction may result in significant air quality impacts.

Mitigation Measure AIR-2: The City of Foster City Public Works Department and/or the project team shall require the project contractor to comply with the following exhaust control requirements:

a. If the project schedule is not reduced below current estimates, then the project contractor shall ensure that all off-road construction equipment with a 25 horsepower or greater diesel engine meets the U.S. EPA's Tier 3 or higher emission standards.

b. If the project schedule is reduced below current estimates, then the project contractor shall ensure that all off-road construction equipment with a 25

horsepower or greater diesel engine meets the U.S. EPA's Tier 4 emission standards.

c. The contractor shall submit to the City of Foster City Public Works Department and/or the project team a list of off-road construction equipment to be used on the project with the following information: equipment type and manufacturer; equipment identification number (required by CARB); year of engine manufacture; and engine Tier rating.

d. The contractor shall also submit to the City of Foster City Public Works Department and/or the project team a Certification Statement that the contractor agrees to comply fully with the applicable Tier 3 or higher emission standards, as described above, for all off-road diesel equipment and acknowledges that a significant violation of this measure will constitute a material breach of contract.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen impacts related to construction-period air pollutant emissions to a less-than-significant level. Specifically, the Commission finds that with implementation of AIR-2, pollutant emission levels for NOx generated from the exhaust of off-road equipment and on-road vehicles would be reduced to below the BAAQMD's threshold of significance. Consequently, construction-related emissions of criteria pollutants would be considered less-than-significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact AIR-2 to a less-than-significant level.

c. Effect on Cumulative Air Quality

Impact AIR-3: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard.

Mitigation Measure AIR-2: Implement Mitigation Measures AIR-1 and AIR-2.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen cumulative impacts related to emissions of fugitive dust and exhaust emissions of NOx during construction to a less-than-significant level. Specifically, the Commission finds that the use of the BAAQMD's recommended dust control measures and off-road equipment with Tier 3 or higher engines would reduce these potentially significant cumulative impacts of fugitive dust and NOx from the project to a level that is not cumulatively considerable.

3. Biological Resources

a. Effect on Special-Status Animal Species

Impact BIO-1: The Levee project could result in significant impacts to special-status animal species, including the burrowing owl, Ridgway's rail, salt marsh harvest mouse, and California black rail.

Mitigation Measure BIO-1a: In order to minimize potential effects to salt marsh harvest mouse, Ridgway's rail, and California black rail and their habitats, the City of Foster City Public Works Department and/or project team shall implement the following:

a. To the extent feasible, levee construction in segment 4 (south of Shorebird Park), 5, 6, 7, and 8 shall be conducted between September 1 and January 31 to avoid the nesting season of the Ridgway's rail. If construction work is proposed after January 31 or prior to September 1, protocol surveys for Ridgway's rail shall be conducted to determine the extent and location of nesting Ridgway's rail. Results of protocol breeding surveys shall be submitted to the U.S. Fish and Wildlife Service (USFWS) for a determination of whether work proposed within 700 feet of a Ridgway's rail nest (or the activity center of vocalizing Ridgway's rails) discovered during such surveys should be rescheduled to occur during the period from September 1 to January 31. Protocol surveys conducted between January 31 and September 1 shall include nesting surveys for California black rail. Results of surveys for California black rail shall be submitted to California Department of Fish and Wildlife (CDFW) to determine if setbacks are warranted to protect nesting California black rail.

b. A qualified biological monitor(s) shall be present during all construction work taking place adjacent to salt marsh providing suitable habitat for Ridgway's rail, California black rail, and salt marsh harvest mouse in segments 4 (south end) 5, 6, 7 and 8. A biological monitor(s) shall also be present during construction work taking place adjacent to suitable foraging habitat for rails in the marsh adjacent to segment 1 and the marsh landward of levee segment 2 that provides potentially suitable winter foraging habitat for California black rail. The monitor(s) are to have demonstrated experience in monitoring sensitive resource issues on construction projects and knowledge of the biology of salt marsh harvest mouse, Ridgway's rail, and California black rail. Prior to the initiation of construction, qualifications of the prospective biological monitor(s) shall be submitted to the USFWS for review and approval. The monitor(s) will have the authority to halt construction, if necessary, when noncompliance

actions occur. The biological monitor(s) shall be the contact person for any employee or contractor who might inadvertently kill or injure a listed species or anyone who finds a dead, injured, or entrapped listed species.

c. Exclusion fencing shall be placed around the bayside of the defined work area prior to the start of construction activities to prevent salt marsh harvest mice from moving into affected areas. The fence shall be made of a material that does not allow harvest mice to pass through, and the bottom shall be buried so that mice cannot crawl under the fence. All supports for the exclusion fencing shall be placed on the landward side of the fence.

d. Prior to commencement of construction activity each day in segments 1, 4 (south end), 5, 6, 7, and 8, and near marsh habitats landward of segment 2, the biological monitor(s) shall conduct a preconstruction survey of the anticipated construction zone for that day to ensure that salt marsh harvest mice, Ridgway's rail or California black rail not present within the work area.

e. The biological monitor(s) shall provide an endangered species training program to all personnel involved in project construction. At a minimum, the employee education program must consist of a brief presentation by persons knowledgeable about Ridgway's rail, California black rail, and salt marsh harvest mouse biology and legislative protection to explain concerns to contractors, their employees, and agency personnel involved with implementation of the project. The program shall include the following: a description of the three species and their habitat needs, any reports of occurrences in the action area; an explanation of the status of the Ridgway's rail, California black rail, and salt marsh harvest mouse and their protection under state or federal Endangered Species Acts; and a list of measures being taken to reduce impacts to these species during the work. Fact sheets containing this information shall be distributed to all involved in the training.

f. If any rail or mouse species is observed at any time during construction, work will not be initiated or will be stopped immediately by the biological monitor(s) until the rail or mouse leaves the vicinity of the work area on its own volition and the USFWS is notified. If the rail or mouse does not leave the work area, work shall not be reinitiated until the USFWS is contacted and has made a decision on how to proceed with work activities. The biological monitor(s) shall direct the contractor on how to proceed accordingly. The biological monitor(s) or any other persons at the site will not pursue, capture, handle or harass any rail or mouse observed.

g. Biological monitor(s) shall ensure that construction work is scheduled to avoid extreme high tides when there is potential for salt marsh harvest mice to move to higher, drier grounds. All equipment will be staged on existing roadways away from the project site when not in use.

h. All personnel and any equipment shall be required to stay within the designated work sites and access corridors to perform job-related tasks, and shall not be allowed to enter adjacent salt marsh wetlands, drainages, and habitat of listed species. Pets shall not be allowed in or near the work site. Firearms would not be allowed in or near the work sites. No intentional killing, harassment, or injury of wildlife shall be permitted. The work sites shall be maintained in a clean condition. All trash (e.g., food scraps, cans, bottles, containers, wrappers, cigarette butts, and other discarded items) shall be placed in closed containers and properly disposed of off-site on a daily basis. Trash cans shall be "bear proof" to reduce the amount of waste available to vermin and other predators. No fires shall be permitted in any of the work sites.

i. Interpretative signage shall be placed along the Bay Trail to encourage public awareness of wetlands ecology, endangered species life histories, species/predator interactions, and how predation of sensitive species can be minimized. Additional signs shall be placed at various points to remind users of the Bay Trail with respect to a prohibition on dogs within the project area during the construction phase of the project.

j. Use of the Bay Trail along the shoreline shall be limited to pedestrians, bicycles, and battery operated wheelchairs or other similar mechanisms associated with access for disabled individuals.

k. Appropriate erosion control materials such as silt fence and straw rolls will be installed as needed during construction activities within the project area.

l. Hazardous materials used during the work period (e.g., fuels, lubricants, solvents, etc.) shall be controlled, cleaned up, and properly disposed of outside the tidal marsh areas. Refueling areas for any equipment will be located at upland sites outside of wetlands.

m. After construction, a final clean-up would include removal of all refuse generated by the work. Vegetation would not be removed or disturbed in the clean-up process.

n. If requested, before, during, or upon completion of construction, the

contractor shall allow access by USFWS and CDFW personnel to the work areas to inspect effects, if any, of the actions on the salt marsh harvest mouse, Ridgway's rail, or California black rail.

o. The project proponent will submit a compliance report, prepared by the biological monitor(s), to the USFWS and CDFW within 60 days after completion of the work. This report will detail the dates the work occurred; information concerning the success of the actions in meeting the recommended mitigation measures; any effects on the salt marsh harvest mouse, and Ridgway's rail or California black rail; documentation of the worker environmental awareness training; and any other pertinent information.

BIO-1b: In order to minimize potential effects to salt marsh harvest mouse, Ridgway's rail, and California black rail resulting from installation of sheet pile walls in areas adjacent to suitable habitats for these species, the City of Foster City Public Works Department, and/or the project team shall implement the following:

a. To provide high tide refuge and cover for Ridgway's rail, California black rail, and salt marsh harvest mouse, vegetation shall be planted along the bayside of the sheet pile wall in all areas adjacent to salt marsh habitats where sheet pile is installed along the levee. A Detailed Vegetation Planting Plan shall be submitted to the USFWS within 60 days of the start of construction. The Detailed Vegetation Planting Plan shall include establishment of high marsh vegetation (including the planting of gum plant and pickleweed), monitoring period, performance criteria, and erosion control measures.

b. Nixalite spikes or other USFWS-approved perching prevention device will be applied to the top of the sheet pile wall in all areas of the levee where sheet pile walls are installed adjacent to salt marsh habitats.

BIO-1c: Pre-construction surveys for burrowing owls shall be conducted prior to any construction activity within each levee segment to ensure that there are no impacts to burrowing owls. If burrowing owls are present near the construction area, construction should not proceed in the vicinity of the active burrow. The pre-construction surveys will be conducted within two weeks prior to the onset of any ground disturbing activities. Surveys will be conducted by a qualified biologist following CDFW survey methods (CDFW, 2012) to establish the status of burrowing owl on the Project Site.

If burrowing owls are found to occupy the property during the non-breeding

season (September 1 to January 31), occupied burrows will be avoided by establishing a no-construction buffer zone around the burrow determined in consultation with CDFW. If avoidance is not possible a passive relocation effort may be instituted to relocate the individual(s) out of harm's way pursuant to a Burrowing Owl Exclusion Plan approved by CDFW.

If burrowing owls are found to be present during the breeding season (February 1 to August 31), the project ground disturbing activities will follow the CDFW recommended avoidance protocol whereby occupied burrows will be avoided with a no-construction buffer zone determined in consultation with CDFW.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen impacts on special-status animal species during construction to a less-than-significant level. Specifically, the Commission finds that specific work windows, protocol surveys, a Detailed Vegetation Planting Plan, perching prevention devices, pre-construction surveys, and use of biological monitors during construction, would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact BIO-1 to a less-than-significant level.

b. Effect on Riparian Habitat or Other Sensitive Natural Community

Impact BIO-2: Project construction could introduce invasive, non-native plants into the project area.

Mitigation Measure BIO-2: Landscaping will be designed to enhance the wildlife value and aesthetic quality of undeveloped portions of the project site. Where appropriate, vegetation removed as a result of project activities will be replaced with native species which are of value to local wildlife, and native vegetation will be retained. If deemed necessary by the Public Works Department, weed management practices shall be implemented, including identification and removal of infestations of noxious weeds prior to construction, use of construction equipment and materials such as fill and erosion control devices that are known to be weed-free, power washing of construction vehicles to remove mud, dirt and vegetative material before working in relatively weed-free areas, and removal of invasive species from areas within the project boundary set aside for open space uses.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen impacts on riparian habitat or other sensitive natural communities during construction to a less-than-significant level. Specifically, the Commission finds that proper

landscaping and vegetation removal practices would reduce these potentially significant impacts from the project related to invasive and non-native species to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact BIO-2 to a less-than-significant level.

c. Effect on Federally Protected Wetlands as Defined by Section 404 of the Clean Water Act

Impact BIO-3: The Levee project would permanently impact federally protected wetlands under the 2050 Sea Level Rise scenario and the 2100 Sea Level Rise scenario.

Mitigation Measure BIO-3: The City of Foster City Public Works Department and/or the project team shall submit applications for a Section 404 Clean Water Act permit from the USACE and for a Section 401 water quality certification from San Francisco Bay RWQCB, required for the USACE permit to be valid. Under the 2050 Sea Level Rise scenario, impacts would be less than 0.5 acres (estimated at 0.48 acres) and the permit from USACE is anticipated to be a Nationwide Permit. Under the 2100 Sea Level Rise Scenario, the impacts of greater than 0.5 acres (estimated at 1.15 acres) would require that the City obtain an Individual Permit from USACE. It is anticipated that applications for these permits would be submitted to the respective agencies sometime in early 2017. Appropriate wetland mitigation would be required by the USACE and RWQCB for impacts to the 0.48 acres of Palustrine Emergent Wetland under the 2050 Sea Level Rise scenario and for impacts to 1.15 acres of Palustrine Emergent Wetland under the 2100 Sea Level Rise scenario. A wetland mitigation plan to mitigate impacts to jurisdictional areas shall be developed as part of the USACE and RWQCB permit process. USACE jurisdictional areas must be replaced at a minimum 1:1 ratio through wetland creation (preferably at a Mitigation Bank) to ensure that no net loss of acreage or functions and values to these areas occurs. The required ratio of replacement acreage to impacted acreage is decided by regulatory agencies on a project-specific basis based on the functions and values present on the project site, but requirement for a mitigation ratio of 2:1 (estimated at 0.96 acres for the 2050 Sea Level Rise scenario, and 2.3 acres for the 2100 Sea Level Rise scenario) would be likely.

To offset the wetland impacts, the Permittee shall either: (1) purchase mitigation credits equivalent to 0.96 acres (2050 Sea Level Rise scenario) or 2.3 acres (2100 Sea Level Rise scenario) from an authorized mitigation bank; or (2) implement a Permittee-responsible mitigation plan and establish or restore wetlands within uplands along the levee alignment. If Permittee-responsible mitigation is

implemented, a detailed mitigation plan shall be prepared that includes monitoring and reporting requirements, responsibilities, performance standards, reporting procedures, contingency plan, and plan to ensure long-term protection through real estate instruments or other available mechanisms, as appropriate. A Permittee-responsible mitigation plan shall consider means of incorporating an ecotone levee or horizontal levee feature consisting of a gently sloped levee designed to mimic the transition from wetlands to uplands and that shall provide flood protection, wildlife habitat (including transitional and refugial habitat for Ridgway's rail and salt marsh harvest mouse) as well as water quality benefits. Such a levee may be feasible in areas adjacent to the City's Phase II Sedimentation Basin in the southern portion of segment 5 and the eastern portion of segment 6.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen impacts on federally protected wetlands during construction to a less-than-significant level. Specifically, the Commission finds that a wetland mitigation plan, developed as part of the USACE and RWQCB permit process, would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact BIO-3 to a less-than-significant level.

d. Substantial Interference with Fish or Wildlife Movement, Wildlife Corridors, or Wildlife Nursery Sites

Impact BIO-4: Project construction involving vegetation removal during the bird nesting season could result in bird mortality or nest failure, and project construction could promote erosion and allow elevated levels of sediment to wash into adjacent wetlands and into aquatic areas downstream.

Mitigation Measure BIO-4a: If feasible, construction work shall take place outside of the February 1 to August 1 breeding window for nesting birds. If construction is to be conducted during the breeding season, a qualified biologist shall conduct a pre-construction breeding bird survey in areas of suitable habitat within 15 days prior to the onset of construction activity. If bird nests are found, appropriate buffer zones shall be established around all active nests to protect nesting adults and their young from construction disturbance. Size of buffer zones shall be determined in consultation with wildlife agency staff based on site conditions and species involved. Buffer zones shall be maintained until it can be documented that either the nest has failed or the young have fledged.

Mitigation Measure BIO-4b: Best Management Practices (BMPs) and all

requirements as detailed in the Stormwater Pollution Prevention Plan (SWPPP) shall be implemented to control erosion and migration of sediments off-site. These requirements are necessary along the bayside of the levee for the entirety of the shoreline of San Francisco Bay, Belmont Slough and O'Neill Slough, locations where wetlands are present along the landward side of the levee (e.g., portions of segment 2, segment 3 adjacent to wetlands south of Bridgeview Park, segments 5 and 6 adjacent to the City's Phase II Sedimentation Basin), and along existing wetlands (including mitigation wetlands) at the proposed staging area within the western and northern perimeter levee for the Phase II Sedimentation Basin, including a short section adjacent to the main Foster City Lagoon. Implementation of water quality controls shall be consistent with the BMPs requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction. Silt fences in combination with straw wattles shall be installed along both sides of the work areas mentioned above to protect adjacent wetlands from increased sedimentation. In addition, vegetation shall only be cleared from the permitted construction footprint. Areas cleared of vegetation, pavement, or other substrates shall be stabilized as quickly as possible to prevent erosion and runoff.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen impacts on fish or wildlife movement, wildlife corridors, or wildlife nursery sites during construction to a less-than-significant level. Specifically, the Commission finds that specific work windows, pre-construction bird surveys, and implementing measures in the SWPPP would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact BIO-4 to a less-than-significant level.

4. Cultural Resources

a. Effect on Archaeological Resources

Impact CULT-1: The Levee project could cause a substantial adverse change in the significance of an archaeological resource.

Mitigation Measure CULT-1: Protection of archaeological resources encountered during construction. If archaeological materials are discovered during the course of construction, all work in the vicinity of the find shall stop. Project personnel shall not collect, move, or otherwise alter archaeological materials. A qualified professional archaeologist shall be retained to assess the find and make recommendations regarding treatment. Upon completion of the assessment, the

archaeologist shall prepare a report documenting the methods and results of the analysis. Any recommendations by the qualified professional shall be incorporated into a treatment plan that takes into account the nature and scope of the find and is implemented by the project contractor.

Finding: The Commission finds this measure is feasible and will avoid or substantially lessen impacts related to adversely impacting archaeological resources, due to project construction. Specifically, the Commission finds that should a discovery occur, retaining a qualified archaeologist to evaluate findings and preparing a treatment plan would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact CULT-1 to a less-than-significant level.

b. Effect on Paleontological Resource or Site or Unique Geologic Feature

Impact CULT-2: The Levee project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Mitigation Measure CULT-2: Protection of paleontological resources encountered during construction. If paleontological specimens are discovered during the course of construction, all work within 25 feet of the find shall stop, and a qualified paleontologist shall be retained to document the discovery and evaluate the nature and significance of the find. Upon completion of the assessment, the paleontologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the paleontological resources discovered. If needed, a treatment plan will be developed that takes into account the nature and scope of the find.

Finding: The Commission finds this measure is feasible and will avoid or substantially lessen impacts related to adversely impacting paleontological resources or unique geologic features, due to project construction. Specifically, the Commission finds that should a discovery occur, retaining a qualified paleontologist to evaluate findings and preparing a treatment plan would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts on paleontological resources would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact CULT-2 to a less-than-significant level.

c. Effect on Human Remains

Impact CULT-3: The Levee project could directly or indirectly disturb human

remains, including those interred outside of formal cemeteries.

Mitigation Measure CULT-3: Protection of human remains encountered during construction. If human remains are encountered during construction, the following procedures shall be followed as required by PRC Section 5097.9 and Health and Safety Code Section 7050.5. If the coroner determines that the human remains are Native American, the Native American Heritage Commission shall be notified and a Most Likely Descendant shall be appointed by the commission. A qualified archaeologist, the City, and the Most Likely Descendant shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects as outlined in the CEQA Guidelines (Section 15064.5(d)). The agreement shall take into account the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects.

Finding: The Commission finds this measure is feasible and will avoid or substantially lessen impacts related to adversely impacting human remains, due to project construction. Specifically, the Commission finds that should a discovery of Native American human remains occur, contacting the Native American Heritage Commission and developing an agreement for the treatment of, with appropriate dignity, human remains, would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact CULT-3 to a less-than-significant level.

d. Effect on Tribal Cultural Resources

Impact CULT-4: The Levee project could cause an adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074.

Mitigation Measure CULT-4: Protection of tribal cultural resources. Consultation with Native American tribes shall continue through completion of the project, pursuant to PRC Section 21074. Native American consultants shall be invited to monitor construction activities within culturally sensitive areas and shall be given the right to inspect sites where human remains are discovered and to determine the treatment and disposition of the remains. The City shall provide requested information and updates to the Native American consultants during the life of the project, including copies of site records, survey reports, or other environmental documents.

Finding: The Commission finds this measure is feasible and will avoid or substantially lessen impacts related to adversely impacting tribal cultural resources, due to project construction. Specifically, the Commission finds consultation with Native American tribes through the completion of the project, would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact CULT-4 to a less-than-significant level.

5. Soils, Geology, and Seismicity

a. Effect on environment from Settlement and Differential Settlement

Impact GEO-1: Damage to Levee project structures or property could result from unstable soil conditions during the construction period.

Mitigation Measure GEO-1: Implement Mitigation Measures GEO-2a through GEO-2c.

Findings. The Commission finds this measure is feasible and will avoid or substantially lessen impacts related to slope failures that could cause damage to structures and/or risk to human safety, due to project construction. Specifically, the Commission finds a geotechnical investigation report, would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, construction-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact GEO-1 to a less-than-significant level.

b. Effect on environment from Expansive and Corrosive Soils

Impact GEO-2: Damage to Levee project structures or property could result from unstable or corrosive soils during the operation period.

Mitigation Measure GEO-2: Implementation of the following three-part mitigation measure would reduce impacts to Levee project structures or property related to unstable and corrosive soils to a less-than-significant level:

GEO-2a: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement the following requirements. This mitigation measure requires that prior to the issuance of any grading or construction permits, a final geotechnical investigation report shall be prepared by a qualified Geotechnical Engineer or Certified Engineering Geologist and submitted to the City Building Inspection Division for review and approval. In addition to all other requirements, the final geotechnical investigation report shall specifically provide recommendations to minimize:

- The potential for adverse effects to existing utilities, pavements, or other structures caused by loading associated with temporary stockpiles.

- The potential damage to structures from total and differential settlement, including damage to or reduction in the flood protection provided by levees, conventional flood walls, and sheet pile walls.

- The potential for damage to flood control structures or pavements caused by expected seismic shaking.

- The potential for damage caused by soil expansion or corrosion to steel and concrete or any other material that may be placed in the subsurface. The recommendations shall incorporate the information obtained from the final soil analysis.

- All design measures, recommendations, design criteria, and specifications set forth in the final geotechnical investigation report shall be implemented as a condition of project approval.

GEO-2b: A licensed Geotechnical Engineer, or their representative, shall be retained to review the geotechnical aspects of the design and engineering plans. The Geotechnical Engineer shall be allowed sufficient time to provide the project design team with comments prior to the issuance of the final plans. These comments shall be considered by the Geotechnical Engineer or Certified Engineering Geologist preparing the plans. Where consensus is reached between the two parties, the plans will be modified accordingly. If consensus is not reached, another third-party Geotechnical Engineer shall be retained to make the determination.

GEO-2c: A licensed Geotechnical Engineer, or their representative, shall be retained to provide geotechnical observation and testing during all earthwork and foundation construction activities. The Geotechnical Engineer shall be allowed to evaluate any conditions differing from those encountered during the geotechnical investigation and shall provide supplemental recommendations, as necessary which the City of Foster City Public Works Department and/or the project team shall require the project contractor to implement. At the end of construction, the Geotechnical Engineer shall provide a letter regarding contractor compliance with project plans and specifications and with the recommendations of the final geotechnical investigation report and any supplemental recommendations issued during construction. The letter shall be submitted for review to the City Building Inspection Division.

Findings. The Commission finds this measure is feasible and will avoid or substantially

lessen impacts to structures or property related to unstable and corrosive soils, during project operation. Specifically, the Commission finds a geotechnical investigation report, would reduce these potentially significant impacts from the project to a level that is less than significant. Consequently, operation-related impacts would be considered less than significant after mitigation. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact GEO-2 to a less-than-significant level.

c. Effect on environment from Ground Shaking

Impact GEO-3: Levee project structures would be subject to seismic shaking hazards during the operation period.

Mitigation Measure GEO-3: Implement Mitigation Measures GEO-2a through GEO-2c.

Findings. The Commission finds this measure is feasible and will avoid or substantially lessen impacts to structures or property related to ground shaking, during project operation. Specifically, the Commission finds that preparing a geotechnical investigation report and implementing its recommendations, would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact GEO-3 to a less-than-significant level.

6. Greenhouse Gas Emissions

The Final EIR found that implementation of the proposed project would not result in any significant greenhouse gas impacts.

7. Hazards and Hazardous Materials

a. Effect on environment from Accidental Release of Hazardous Materials

Impact HAZ-1: Levee project construction period activities could result in accidental releases of hazardous materials and/or the disturbance and reuse of soil potentially impacted with hazardous materials that could result in impacts to construction workers, the public, and/or the environment.

Mitigation Measure HAZ-1: Sampling and characterization of soil shall be performed prior to excavation for conventional flood wall construction, including in the area beneath the San Mateo Bridge/SR 92 where aerially deposited lead may be present in soil. The soil sampling and analytical methods shall be selected by a qualified environmental professional. The analytical results of the sampling shall be reviewed by the qualified environmental professional, and then submitted to the City of Foster City Public Works Department and/or the project

team and the appropriate regulatory agency, if necessary. The environmental professional shall provide recommendations to the project contractor and the City Fire Prevention Bureau, as applicable, for review and approval regarding soil/waste management, worker health and safety requirements, and regulatory agency notifications, in accordance with local, state, and federal requirements. Any recommendations by the environmental professional shall be required to be implemented by the project contractor.

A Construction Risk Management Plan (CRMP) shall be prepared by the project contractor to protect construction workers, the public, and the environment from hazardous materials, including potential unknown contamination in the subsurface of the project site. The CRMP shall include the following:

1) Procedures for evaluating, handling, storing, testing and disposing of soil during project excavation activities.

2) A project-specific Health and Safety Plan that identifies hazardous materials to be used at the project site (e.g., oils, grease, and fuels) and hazardous materials identified in soil through sampling; 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.

3) A contingency plan that shall be applied if previously unknown hazardous materials are 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 oversight by the City or regulatory agency, as

appropriate.

4) Designated personnel responsible for implementation of the CRMP.

The CRMP shall be submitted to the City of Foster City Public Works Department and/or the project team to be reviewed and approved by the Foster City Fire Prevention Bureau for review and approval prior to construction activities.

In addition, the following measures shall be implemented:

- The contractor(s) shall designate storage areas suitable for hazardous materials delivery, storage, and waste collection. These locations must be as far away from catch basins, gutters, drainage courses, and water bodies as possible. All hazardous materials and wastes used or generated during project site development activities shall be labeled and stored in accordance with applicable local, state, and federal regulations. In addition, an accurate up-to-date inventory, including Safety Data Sheets (SDSs), shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident.

- All maintenance and fueling of vehicles and equipment shall be performed in a designated, bermed area, or over a drip pan that will not allow runoff of spills. Vehicles and equipment shall be regularly checked and leaks repaired promptly at an off-site location. Secondary containment shall be used to catch leaks or spills any time vehicle or equipment fluids are dispensed, changed, or poured.

- An Emergency Preparedness and Response Procedures shall be developed and implemented 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, and required personal protective equipment, as appropriate, in responding to the emergency. The contractor(s) shall submit these procedures to the City for approval prior to demolition or development activities.

- If the presence of subsurface hazardous materials is confirmed at the project 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 developed by the project contractor, if

determined necessary by the regulating agency(ies) and implemented. The Site Remediation 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 earthwork 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.

- Engineering fill shall be tested prior to being brought on-site to ensure that it would not 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., ESLs). The engineered fill shall be characterized by representative sampling in accordance with the Environmental Protection Agency's (EPA) SW-846 Test Methods and in accordance with the Department of Substance Control's (DTSC) Information Advisory for Clean Imported Fill Material (2001 or most recent version). Fill testing shall be performed by a qualified environmental professional and demonstrated to meet the appropriate threshold criteria. The results of the sampling and waste characterization shall be submitted by the contractor(s) to the City prior to construction.

- The contractor shall prepare a Waste Disposal and Hazardous Materials Transportation Plan for City approval prior to construction activities and implement the Plan during demolition and construction activities. This plan shall describe the analytical methods for characterizing wastes and the handling methods required to minimize the potential for exposure, and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils. The required disposal method for contaminated materials, the approved disposal site, and specific routes used for transport of wastes to and from the project site shall be indicated. The Waste Disposal and Hazardous Materials Transportation Plan may be prepared as an addendum to the Waste Management Plan required by Chapter 15.44 (Ordinance 523) of the Foster City Municipal Code.

- Hazardous materials and wastes generated during demolition, grading, and trenching activities, shall be removed, managed, and disposed of in accordance with applicable regulations.

Compliance with existing regulations and implementation of Mitigation

Measure HAZ1 would ensure that impacts associated with potential releases of hazardous materials are less than significant.

Finding: The Commission finds that these measures are feasible and will avoid or substantially lessen impacts related to the accidental release and/or disturbance and reuse of soil potentially impacted with lead, asbestos, or other hazardous materials to a less-than-significant level. Specifically, implementation of Mitigation Measure HAZ-1 would ensure that hazardous materials releases occurring during construction periods of other projects in the area do not combine with the proposed project to create a cumulatively considerable effect. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact HAZ-1 to a less-than-significant level.

b. Effect on an Adopted Emergency Response Plan or Emergency Evacuation Plan

Impact HAZ-2: Construction of the improved levee could interfere with the use of the emergency response/evacuation routes.

Mitigation Measure HAZ-2: Prior to the start of construction, the contractor shall develop a plan to ensure that sufficient access for emergency vehicles, including fire engines and trucks, and emergency evacuation is maintained at all times during construction activities at the fire access roads and evacuation routes impacted by construction of the proposed project, by constructing temporary bypasses adjacent to the fire access roads and evacuation routes. The contractor shall coordinate with the Foster City Police Department and Fire Department to design the temporary bypasses to ensure that they would allow appropriate emergency response and evacuation access. The contractor shall submit the plan to the Foster City Police Department and Fire Department for review and approval. The plan shall outline the notification procedures for informing the Foster City Police Department and Fire Department of when the existing fire access roads and evacuation routes would be blocked and replaced by the temporary bypasses. The plan shall also outline procedures for notification and placement of signage to inform the public of the temporary bypasses for emergency response/evacuation routes.

Finding: The Commission finds that these measures are feasible and will avoid or substantially lessen impacts related to emergency access and response to a less-than-significant level. Specifically, the Commission finds that developing an access plan for emergency vehicles would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact HAZ-2 to a less-than-significant level.

8. Hydrology and Water Quality

a. Effect on Water Quality

Impact HYD-1: Construction of the proposed Levee project could result in degradation of water quality in Belmont Slough, the Foster City Lagoon, and San Francisco Bay.

Mitigation Measure HYD-1a: The following measures shall be implemented to reduce the risk of spill/releases and disturbed soils from impacting water quality in nearby surface waters during construction activities:

- The contractor(s) shall designate storage areas suitable for material delivery, storage, and waste collection. These locations must be as far away from catch basins, gutters, drainage courses, and water bodies as possible. All hazardous materials and wastes used or generated during project site development activities shall be labeled and stored in accordance with applicable local, state, and federal regulations. In addition, an accurate up-to-date inventory, including Safety Data Sheets (SDSs), shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident.

- All maintenance and fueling of vehicles and equipment shall be performed in a designated bermed area, or over a drip pan that will not allow runoff of spills. Vehicles and equipment shall be regularly checked and have leaks repaired promptly at an off-site location. Secondary containment shall be used to catch leaks or spills any time vehicle or equipment fluids are dispensed, changed, or poured.

- Construction Best Management Practices (BMPs) related to stormwater pollution prevention shall be included and noted on the construction plans.

- The contractor shall implement a Stormwater Pollution Prevention Plan (SWPPP) prepared by a Qualified SWPPP Developer (QSD) and designed to reduce potential adverse impacts to surface water quality during the construction period. The SWPPP shall include the minimum BMPs required for the identified risk level. BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction. The SWPPP shall be designed to address the following objectives:

    1) All pollutants and their sources, including sources of sediment associated with construction activity are controlled.

2) Where not otherwise required to be under a Regional Water Quality Control Board (RWQCB) permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated.

3) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity.

4) Stabilization BMPs installed to reduce or eliminate pollutants and erosion of exposed soil after construction are completed, which may include but would not be limited to: hydroseeding, planting of vegetation, installation of jute/burlap netting, and installation of swales in graded areas.

5) BMPs shall be designed to mitigate construction-related pollutants and at a minimum, include the following:

    a. Practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly-designed centralized storage areas that keep these materials out of the rain.

    b. Practices to reduce erosion of exposed soil which may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins.

    c. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control (i.e., keeping sediment on the site). End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Ingress and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

6) The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and shall include both dry and wet weather inspections. Monitoring shall be required during the construction period for pollutants that may be present in the runoff that are “not visually detectable in runoff.”

- Site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.

- A Qualified SWPPP Practitioner (QSP), hired by the City of Foster City Public Works Department and/or the project team, shall be responsible for implementing BMPs at the site (a qualified professional that has the required professional credentials and has passed specific training courses in accordance with the Construction General Permit). The QSP shall also be responsible for performing all required monitoring, and BMP inspection, maintenance and repair activities. The QSP shall retain an independent monitor to conduct weekly inspections and provide written monthly reports to the City of Foster City Public Works Department and/or the project team to ensure compliance with the SWPPP.

HYD-1b: The City of Foster City Public Works Department and/or the project team shall require the project contractor(s) to obtain applicable resource agency permits and approvals and comply with permit requirements to prevent impacts to water quality and demonstrate that water quality standards and/or waste discharge requirements are not violated. Permit requirements and avoidance measures that may be required by the U.S. Army Corp of Engineers (USACE) and/or the RWQCB may include, but not be limited to the following:

- Installing physical barriers (e.g., silt curtains) to prevent potential localized impacts to water quality (e.g., increase in turbidity) from spreading to surrounding surface waters.

- Performing water quality monitoring, including sampling and analysis for turbidity and total suspended solids.

At the direction of the applicable resource agency, the results of the water quality monitoring shall be compared to established performance standards. If water quality monitoring indicates that performance standards are not being achieved, additional avoidance measures (e.g., installation of additional silt curtains) shall be implemented until water quality monitoring indicates that performance standards are being achieved, which would mitigate the potential impacts to water quality to a less-than-significant level.

Finding: The Commission finds these measures are feasible and applicable to the proposed project, and will reduce the project's hydrology and water quality impacts on Belmont Slough, the Foster City Lagoon, and San Francisco Bay to a less-than-significant level. Specifically, the Commission finds that construction and operational impacts to storm water that would result from implementation of the proposed project would be

minimized through implementation of a SWPPP, and design features that increase the project's ability to contain and convey storm water on the project site. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact HYD-1 to a less-than-significant level.

9. Land Use

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

10. Noise and Vibration

a. Effect on environment from Excessive Noise Levels on Area Roadways

Impact NOISE-1: Noise from hauling trucks on area roadways associated with Levee project construction could generate noise levels that disturb nearby receptors.

Mitigation Measure NOISE-1: 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 (i.e., multiple complaints are received by the City or its contractors from nearby receptors), the contractor shall work with the City to develop and implement measures to minimize noise, including requiring an adjustment of truck arrival and/or unloading times and other feasible measures. City staff shall communicate regularly with those making the complaints to ensure that the issue is satisfactorily resolved. Mitigation Measure NOISE 1, which requires the development and implementation of a plan to minimize noise (including requiring an adjustment of truck arrival and/or unloading times), would reduce the noise impact from hauling trucks on area roadways to a less-than-significant level.

Finding: The Commission finds that these measures are feasible and will avoid or substantially lessen the project's impacts related to excessive noise levels during project construction to a less-than-significant level. Specifically, the Commission finds that implementation of Mitigation Measure NOISE-1 would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact NOISE-1 to a less-than-significant level.

b. Effect on environment from Excessive Noise Levels along the Levee

Impact NOISE-2: Noise from hauling trucks along the levee associated with Levee project construction could generate noise levels that disturb nearby receptors.

Mitigation Measure NOISE-2: Implement Mitigation Measure NOISE-1.

Finding: The Commission finds that these measures are feasible and will avoid or substantially lessen impacts related to excessive noise levels during project construction to a less-than-significant level. Specifically, the Commission finds that implementation of Mitigation Measure NOISE-2 would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact NOISE-2 to a less-than-significant level.

c. Effect on environment from Construction Noise

Impact NOISE-3: The operation of the construction equipment on the Levee project site and in the staging areas could result in the exposure of nearby sensitive receptors to temporary noise levels that conflict with the City of Foster City Municipal Code regulations, and could generate substantial increases in noise levels for intermittent periods when certain construction activities occur (e.g., pile driving).

Mitigation Measure NOISE-3: The following five-part mitigation measure shall only apply to the construction activity along segments 5 through 8 and to any staging areas located within 60 feet of a sensitive receptor under the 2050 Sea Level Rise and the 2100 Sea Level Rise scenarios:

NOISE-3a: Residences and landowners within 60 feet of proposed project (those near segment 5 through segment 8, and near any potential staging area) under the 2050 Sea Level Rise scenario and the 2100 Sea Level Rise scenario shall be provided with written notice of construction activity within at least seven days of before work begins. The notice shall state the date of planned construction activity in proximity to that landowner's property and the range of hours during which maximum noise levels are anticipated.

NOISE-3b: For construction activities that will occur within 60 feet of levee segment 5 through segment 8 and near any potential staging area under the 2050 Sea Level Rise scenario and the 2100 Sea Level Rise scenario, City of Foster City shall require the project contractor to submit a Construction Noise Management Plan, prepared by a qualified acoustical consultant, that contains a set of site-specific noise attenuation measures, potentially including the use of mobile sound barriers within the project footprint, to further reduce construction noise impacts, for review and approval by the City of Foster City Public Works Department and/or the project team.

NOISE-3c: The City of Foster City Public Works Department and/or the project

team shall require the project contractor to implement the construction contractor to 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.

NOISE-3d: The City of Foster City Public Works Department and/or the project team shall require the project contractor to implement. The construction activities shall be limited to the hours of 8:00 a.m. to 5:00 p.m. on weekdays unless deviations from this schedule are approved in advance by the City. Non-construction activities may take place between the hours of 7:00 a.m. and 8:00 a.m. on weekdays and 9:00 a.m. and 4:00 p.m. on Saturdays, but they must be limited to quiet activities and shall not include the use of engine-driven machinery. No actual construction activities may take place between 7:00 a.m. and 8:00 a.m.. Forklifts shall be allowed to operate on site between the hours of 5:00 p.m. and 6:30 p.m. on weekdays. The Planning Commission 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.

NOISE-3e: The construction contractor, to minimize construction noise impacts, shall use all engine-driven construction vehicles, equipment, and pneumatic tools that shall be required to use effective intake and exhaust mufflers; equipment shall be properly adjusted and maintained; and all construction equipment shall be equipped with mufflers in accordance with Cal/OSHA standards.

NOISE-3f: The construction contractor shall place all stationary construction equipment such that emitted noise is directed away from sensitive receptors nearest the project site.

NOISE-3g: The construction contractor 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.

Additional factors that would reduce the severity of this impact include the short-term nature of the impact. Exposure of any given receptor to levels of construction noise greater than 100 dBA would be brief relative to the total duration of each construction activity (Table III-3) because the location where the work for each construction activity is occurring would move along the project

alignment over time. More specifically, the construction work would move along the project alignment at a speed of approximately 100 feet per day. Therefore, each phase of the construction work would be expected to last no more than one day within 60 feet of any given residence.

Implementation of the five-part mitigation measure NOISE-3 would reduce construction period noise to the extent feasible. However, the construction of the proposed project could still generate noise levels that conflict with the City of Foster City Municipal Code regulations at the producer's property plane temporarily. Therefore, the impact of noise from construction equipment on the project site and in staging areas would conservatively remain significant and unavoidable.

Finding: The EIR preparers identified Mitigation Measure NOISE-3 as a potentially viable measure to reduce Impact NOISE-3 to a less-than-significant level. However, the associated reduction in construction-period noise could still generate noise levels that conflict with the City of Foster City Municipal Code regulations. The Commission 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 specific environmental, safety, legal, social, or other benefits of the project outlined in Section E. Statement of Overriding Considerations.

d. Effect on environment from Excessive Vibration

Impact NOISE-4: Construction of the Levee project could result in the exposure of nearby receptors to excessive vibration.

Mitigation Measure NOISE-4: Implement Mitigation Measure NOISE-3c through NOISE 3g.

Implementation of Mitigation Measure NOISE-4a would reduce the impacts of exposure of nearby receptors to vibration. In addition, the construction vibration would be temporary (no more one day at any given residence located within 70 feet of the project site or within 40 feet of staging areas) because the location of work for each construction activity would move along the project alignment as construction progressed. Based on the short-term nature of the potential disturbance, this impact would be less than significant.

NOISE-4b: A project contractor or other qualified professional shall be retained to prepare a vibration impact assessment (assessment) for residences located within

15 feet near levee segment 8 and within 5 feet of any potential staging area. The assessment shall take into account project-specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, and the soil characteristics in the project area, to determine whether project construction may cause damage to any of the structures located within 15 feet near levee segment 8 and within 5 feet of any potential staging area. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other qualified professional shall recommend design means and methods of construction to avoid the potential damage. The assessment and its recommendations shall be reviewed and approved by the City of Foster City. If there are no feasible design means and methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. The study will establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls. The study shall include written descriptions and photographs. The study shall be reviewed and approved by the City of Foster City Public Works Department and/or project team. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the City of Foster City Public Works Department and/or project team for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

Finding: The Commission finds that these measures are feasible and will avoid or substantially lessen impacts related to the exposure of nearby receptors to excessive vibration during project construction to a less-than-significant level. Specifically, the Commission finds that Mitigation Measure NOISE 3c through NOISE 3g (including limited hours of construction, equipment with effective intake and exhaust mufflers, and locating construction equipment and staging areas as far from noise-sensitive receptors as possible) in addition to a vibration impact assessment to avoid damage to nearby structures, would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen Impact NOISE-4 to a less-than-significant level.

11. Traffic and Transportation

a. Effect on Pedestrian and Bicycle Facilities

Impact TRANS-1: The Levee project would temporarily disrupt pedestrian and bicycle facilities.

Mitigation Measure TRANS-1: The project shall include a Bay Trail closure plan prepared by the project contractor and reviewed by the City of Foster City Public Works Department and/or the project team that includes recommended detour routes, appropriate signage and striping, and public outreach strategies, as detailed in this section for each phase of construction. A Transportation Management Plan approved by Caltrans, shall also be prepared. The Bay Trail closure plan shall be consistent with the standards and guidelines listed below, including the 2014 California MUTCD, the San Mateo County Resource Guide, the Bicycle Technical Guidelines, and Caltrans Standards. Additionally, the closure plan shall include a plan for Memorial Benches currently located along the Bay Trail that would include either re-locating or placing them in the same location (depending on final design details and final wall heights).

Recommended Bay Trail detour routes are shown on Figure V.K 5 for each phase of construction. Detours shall be determined to maintain connectivity of the Bay Trail through Foster City during construction while focusing on user safety. A Construction Management Plan shall also be submitted to the City of Foster City Public Works Department for review and approval prior to the start of construction and shall require construction and haul trucks to leave the project site by 4:00 p.m. on weekdays to avoid traveling during the peak evening commute period (4:00 to 6:00 p.m.) when traffic volumes are the highest. If the project schedule is reduced below the shortest anticipated schedule (1.5 years for the 2050 Sea Level Rise scenario and 2 years for the 2100 Sea Level Rise scenario) the contractor shall submit a final construction-phasing plan to the City of Foster City Public Works Department and/or the project team for review prior to the start of construction.

The Bay Trail closure plan shall be implemented and monitored by the project contractor with oversight by the City of Foster City Public Works Department and/or the project team. The closure plan shall comply with 2014 California Manual on Uniform Traffic Control Devices provides standards, guidance, and support for bicycle considerations as part of the temporary traffic control during construction periods. Applicable standards and recommendations for bicycle and pedestrian detour routes include:

- Bicyclists shall not be led into direct conflicts with mainline traffic, work site vehicles, or equipment moving through or around the temporary traffic

control zone (Section 6D.101(CA)-01-E).

- Each detour shall be adequately marked with standard temporary route signs and destination signs (Section 6F.59-01).
- If used, the Pedestrian/Bicycle Detour sign shall have an arrow pointing in the appropriate direction (Section 6F.59-11).
- Where pedestrian routes are closed, alternate pedestrian routes shall be provided (Section 6G.05-08).
- When existing pedestrian facilities are disrupted, closed, or relocated in a temporary traffic control zone, the temporary facilities shall be detectable and shall include accessibility features consistent with the features present in the existing pedestrian facility (Section 6G.05-09).
- When the roadway width is inadequate for allowing bicyclists and motor vehicles to travel side by side, warning signs shall be used to advise motorists of the presence of bicyclists in the travel way lanes (Section 6D.101(CA)-01-D).
- Bicyclists and pedestrians shall not be exposed to unprotected excavations, open utility access, overhanging equipment, or other such conditions (Section 6G.05-05).
- When existing accommodations for bicycle travel are disrupted or closed in a long-term duration project, appropriate information and devices shall be used in order to replicate existing conditions for the needs and control of bicyclists through a temporary traffic control zone (Section 6G.05-06a).
- The closure plan shall be monitored and implemented by the City and shall also follow additional guidance provided by the San Mateo County Resource Guide for the Education, Funding and Design of Pedestrian and Bicycle Facilities and the Bicycle Technical Guidelines prepared by the Santa Clara Valley Transportation Authority (VTA). The San Mateo County Resource Guide and VTA Bicycle Technical Guidelines reference the Manual on Uniform Traffic Control Devices and Caltrans standards as well as provide best practices.
- Long detour routing shall be avoided because of lack of compliance.
- Bicycle detour signs shall be used where a pedestrian/bicycle detour route has been established because of the closing of a bicycle facility to through

traffic. Advance warning of the detour shall be placed at appropriate locations and clear wayfinding shall be implemented to enable bicyclists to continue safe operation along travel corridor. If the detour route for the pedestrian detour is the same as for the bicycle detour, then the combination pedestrian/bicycle detour sign (M4-9a) may be used. The City shall approve a contractor prepared detour plan.

- Post a sign giving bicyclists advance notice of all bike path closures and of all other detours of more than 0.5 mile. Two weeks' notice of path and roadway closures is recommended.

- A schematic of the detour route should be posted at the beginning of the detour if the detour route is complex or there are a lot of non-local users of the facility (e.g., a regional trail).

- All pedestrian and bicycle access points will be constructed to City standards, which are consistent with ADA regulations.

Additional guidance and figures, including appropriate signage and striping for constructions zones and detour routes, is included in Appendix F.

The closure plan shall also follow these recommendations for public outreach strategies:

- Brochures and Mailers – The brochures and mailers shall contain project-related information, including project description, construction schedule, and detour maps. They shall be printed out and disseminated to Bay Trail users before construction begins.

- Social Media – Use appropriate social media sites (Twitter, Facebook, etc.) to target user groups and alert them of the trail closure and detour routes. Work with cycling and pedestrian advocacy groups to craft the most effective messaging.

- Press Release – Issue press releases for radio, television, and print media for the planned closures and proposed detours.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen impacts related to pedestrian and bicycle facilities. Specifically, the Commission finds that a Bay Trail closure plan, Transportation Management Plan, Construction Management Plan, and final construction-phasing plan would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required for, or

incorporated into, the project that avoid or substantially lessen Impact TRANS-1 to a less-than-significant level.

12. Recreation

a. Effect on Existing Recreational Opportunities

Impact REC-1: Construction of the Levee project would temporarily reduce the availability and access of the Bay Trail and water-dependent recreation activities.

Mitigation Measure REC-1: I The Public Works Department shall post signage giving advance notice to recreationists at the locations where water-related recreational activities may be impacted by closures or result in limited access to the waterfront. Additionally, implement Mitigation Measure TRANS-1.

Finding: The Commission finds that this measure is feasible and will avoid or substantially lessen construction-related impacts related to recreational opportunities. Specifically, the Commission finds that posting signage at locations where water-related recreational activities may be impacted, a Bay Trail closure plan, Transportation Management Plan, Construction Management Plan, and final construction-phasing plan would reduce these potentially significant impacts from the project to a level that is less than significant. Therefore, the Commission finds that changes or alterations have been required for, or incorporated into, the project that avoid or substantially lessen Impact REC-1 to a less-than-significant level.

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:

1. Meet current FEMA standards.
2. Expedite permitting and construction of necessary levee improvements to the extent feasible to retain FEMA levee accreditation before such accreditation is lost.
3. Provide protection from current anticipated sea level rise, as well as flexibility to adapt to increased levels of protection in the future as needed.
4. Maintain public access and recreational opportunities.
5. Minimize and/or avoid impacts to sensitive habitats such as jurisdictional waters of the U.S. and State (including wetlands) on the bayside of the existing levee.
6. Minimize impacts to sensitive habitats such as jurisdictional waters of the U.S. and State on the landward side of the existing levee.

7. Avoid direct impacts to fully tidal waters and wetlands occupied by special-status species such as federal and State-listed species to the maximum extent feasible.

The four project alternatives analyzed in this EIR include:

- **No Project/No Build Alternative** — assumes the project would not be developed. The existing levee would remain in its current condition.
- **Existing Levee Footprint 2050 Sea Level Rise Alternative** — assumes the project would improve the approximately 43,000-linear-foot (8 miles) existing levee system with no deviation from the existing levee system alignment. This alternative assumes the same levee improvement types as described under the proposed project's 2050 Sea Level Rise project scenario. Unlike the both project scenarios, there would be no deviation within segment 4 from the existing levee system alignment.
- **Horizontal Levee 2050 Sea Level Rise Alternative** — assumes portions of the levee system (segment 2) would be replaced with earthen fill in what is known as an "ecotone slope" or "horizontal levee" that blend a traditional earthen levee with restored tidal marshes. This alternative assumes the same levee improvement types for segment 1 and segments 3 through 8 as described under the proposed project's 2050 Sea Level Rise project scenario.
- **FEMA Freeboard Alternative** — assumes the project site would be located within the footprint of the approximately 43,000-linear-foot (8 miles) existing levee system with the same slight deviation within segment 4 as both proposed project scenarios. This alternative would have the same levee improvement types and locations as the proposed project's 2050 Sea Level Rise project scenario but the top elevation for the levee/floodwall would be lower as it would only meet the elevations necessary to retain FEMA accreditation. The current levee ranges from 11–13 feet NAVD 88 and it would range from 12.5–16.5 feet NAVD 88 under this alternative (under the 2050 Sea Level Rise project scenario it would range from 13.5–19 feet NAVD 88). This alternative would only require 7,000–8,000 cubic yards of fill to raise the elevation of the levee. This alternative will satisfy FEMA's requirement for accredited levees but not achieve protection from anticipated sea level rise.

There is substantial evidence that the alternatives identified in the EIR would not avoid or substantially lessen the significant unavoidable impacts of the project and/or would not meet the project objectives. 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 Commission determines that the four 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. No Project/No Build Alternative

a. Description

The No Project/No Build Alternative assumes that the levee would remain in its existing condition and no new improvements would be constructed on the project site. No increased flood protection would be provided.

b. Comparison to Project

Because no construction would occur, the No Project/No Build Alternative would avoid each of the significant aesthetic, air quality, biological, cultural, soils, geology, and seismicity, hazards and hazardous materials, hydrology and water quality, noise and vibration, traffic and transportation, and recreation impacts associated with the proposed project. Additionally, the No Project/No Build Alternative would avoid the significant unavoidable aesthetic and noise impacts of the project related to the increase in levee elevation and operation of construction equipment on the project site and staging areas.

c. Findings

Implementation of the No Project/No Build Alternative would preserve the existing site conditions. However, the Commission finds that under the No Project/No Build Alternative, the City would not retain FEMA accreditation and the project area would continue to remain in the FEMA-designated Special Flood Hazard Area and there would be no flexibility to adapt to increased levels of protection in the future as needed. Flood risks in the area would not be reduced and all residents with federally-backed loans would be required to obtain mandatory flood insurance and disclose to potential buyers that their properties are located within a flood zone.

The Commission finds that the No Project/No Build Alternative fails to meet a key project objective of retaining FEMA accreditation and would result in a significant and unavoidable impact related to flooding and water quality. Based on the foregoing findings, the Commission rejects the No Project/No Build Alternative as infeasible.

2. Existing Levee Footprint 2050 Sea Level Rise Alternative

a. Description

The Existing Levee Footprint 2050 Sea Level Rise Alternative assumes the project would improve the approximately 43,000-linear-foot (8 miles) existing levee system with no deviation from the existing levee system alignment. Unlike the proposed project scenarios, this alternative would not deviate within segment 4 from the existing levee system alignment. Similar to the 2050 Sea Level Rise project scenario, this alternative assumes the levee improvement types would consist of sheet pile floodwall, earthen levee,

and conventional floodwall, that range from 13.5–18 feet in elevation and would include 34,000–46,000 square feet of fill (as analyzed in the 2050 Sea Level Rise project scenario).

b. Comparison to Project

The Existing Levee Footprint 2050 Sea Level Rise Alternative would generally result in environmental effects that, while reduced in intensity as compared to the propose project, would result in most of the same environmental impacts. The construction of this alternative would still result in the same air quality impacts related to fugitive dust, contaminants and air quality standards. Similar to the proposed project, implementation of the mitigation measures would reduce this alternative's air quality impacts to a less-than-significant level. Like the proposed project, the Existing Levee Footprint 2050 Sea Level Rise Alternative would also result in significant impacts related to expansive and corrosive soils and ground shaking, emergency access, degradation of water quality, and disruption to pedestrians and bicycle facilities that could be mitigated by mitigation measures.

Like 2050 Sea Level Rise project scenario, the levee elevation for the Existing Levee Footprint 2050 Sea Level Rise Alternative would be 13.5–18 feet at Shorebird Park and the impacts would be the same. Relative to the 2100 Sea Level Rise project scenario (elevation of 16–21.5 feet), the impact under this alternative would be incrementally less as the elevation would be 2.5–3.5 feet lower. Because the Existing Levee Footprint 2050 Sea Level Rise Alternative would change visual quality for recreationists and obstruct scenic vistas of the San Francisco Bay at Shorebird Park (segment 4), this impact would remain significant and unavoidable. This alternative would also result in the same significant and unavoidable noise impacts related to the operation of construction equipment on the project site and staging areas.

c. Findings

The Existing Levee Footprint 2050 Sea Level Rise Alternative would achieve all of the project objectives with the exception of objective 2: expedite the permitting and construction of necessary levee improvements to the extent feasible to retain FEMA levee accreditation before it is lost. Both proposed project scenarios slightly deviate from the existing levee system alignment within segment 4. The purpose of this deviation is to avoid certain property of an owner that has questioned the City's rights to improve a minor portion of the existing levee system crossing the owner's property, and has threatened litigation against the City if the City makes further improvements to this levee system portion. The City is confident that it has the legal right to improve this levee system portion and would therefore succeed in defending against such litigation. However, the construction delay associated with such litigation would delay the schedule required to retain FEMA accreditation. If FEMA accreditation is not retained, approximately 17,000 individual properties within Foster City and San Mateo could be placed within a

FEMA-designated Special Flood Hazard Area due to the risks associated with levee overtopping. As such, this alternative could prevent achievement of the project objective to retain FEMA levee accreditation before it is lost (objective 2).

The Commission finds that the Existing Levee Footprint 2050 Sea Level Rise Alternative fails to meet a key project objective of retaining FEMA accreditation and would not avoid significant unavoidable impacts related to aesthetics and noise. Based on the foregoing findings, the Commission rejects the Existing Levee Footprint 2050 Sea Level Rise Alternative as infeasible.

3. Horizontal Levee 2050 Sea Level Rise Alternative

a. Description

As an alternative to the construction of a traditional levee, earthen fill could be placed at much shallower slopes in what is known as a "horizontal levee" or sometimes as an "ecotone slope" (hereafter referred to as "Horizontal Levee") along segment 2. Segments 1 and segments 3 through 8 of the levee would consist of sheet pile floodwall, earthen levee, and conventional floodwall levee improvement types as proposed under the 2050 Sea Level Rise project scenario because a Horizontal Levee would not be feasible in these locations. The most feasible location is along segment 2 because there is significant wave action, sufficient space for the amount of fill required, and the Horizontal Levee would not cross onto private property.

Under this alternative, rather than sloping the levee embankment at 2:1 (horizontal to vertical), fill would be sloped at 30:1 or roughly a slope of 0.03–0.04-foot per foot. The benefit of such a gentle slope, which would be vegetated to provide various habitats, is to help dissipate wave energy and significantly reduce the maximum wave run-up elevation on the vertical or near vertical shoreline barrier. Since the required increases in elevation for much of the Foster City levee system are predicated on protection against wave run-up, offshore marsh creation (that would be created as part of the Horizontal Levee system) has the potential to result in lower levee elevations.

Construction of this alternative would require placing approximately 1 million cubic yards of clean fill into the bay that would extend out into the existing bay water approximately 400 feet beyond the existing shoreline and cover an area of about 100 acres. There is no specifically identified source of this much transportable clean fill. Further, because of the shallow water off the shore of Foster City and continuous tidal bay water level fluctuations, it is unlikely that the fill material could be transported to the site by barge and would have to be delivered by truck.

Approximately 50,000 20-cubic-yard truck trips would be required to transport 1 million cubic yards to the project staging areas. Smaller trucks (approximately 10cubic-yard capacity) would be used to transport the soil material from the staging area to the levee.

Preliminary engineering estimates indicate it would take approximately 6 years to complete the required 100,000 10-cubic-yard capacity truck trips and construct the Horizontal Levee (for comparison, estimates for proposed project are 1.5–2 years for 2050 Sea Level Rise project scenario and 2–2.5 years for 2100 Sea Level Rise project scenario). The time required for the movement of this quantity of fill would exceed schedule constraints on the project. In addition, preliminary engineering estimates indicate that this alternative would more than double project construction cost over the proposed project 2050 Sea Level Rise project scenario.

b. Comparison to Project

The Horizontal Levee 2050 Sea Level Rise Alternative would generally result in greater environmental effects compared to the propose project. The construction of Alternative 3 would have greater impacts for air quality, cultural resources, soils, geology, and seismicity, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise and vibration, traffic and transportation and recreation because the horizontal levee improvement type would require approximately 1 million cubic yards of fill. This substantial increase in fill would require more truck trips and result in a longer construction schedule and greater emissions during construction compared with the project scenarios, substantially increasing the severity of impacts related to emissions. Since this alternative would require construction activities to take place directly in the bay, the impacts are considered more severe than the proposed.

Like the Existing Levee Footprint 2050 Sea Level Rise Alternative, the Horizontal Levee 2050 Sea Level Rise Alternative would have a reduced impact to visual quality and scenic vistas at Sea Cloud Park (segment 6), but would still result in a significant and unavoidable impact due to the aesthetic impacts which are the same as the 2050 Sea Level Rise project scenario for segment 4 at Shorebird Park. This alternative would also result in the same significant and unavoidable noise impacts related to the operation of construction equipment on the project site and staging areas.

c. Findings

It is unclear whether a Horizontal Levee would meet current FEMA standards and allow the City to retain FEMA levee accreditation as this type of flood protection system has never been approved by FEMA. There would be substantial risk that upon completion of detailed engineering design (FEMA would not consider the project for approval without detailed design), that FEMA would reject this approach and the current FEMA accreditation status would not be continued. Further, the increased construction duration would also not meet the schedule required to retain FEMA accreditation. If FEMA accreditation is not achieved, approximately 17,000 individual properties within Foster City and San Mateo could be placed within a FEMA-designated Special Flood Hazard Area due to the risks associated with levee overtopping. Therefore, this approach may not meet the basic project objectives (1 and 2).

It is uncertain how adaptable a Horizontal Levee is to sea level rise, as this type of levee has not been constructed and tested in the San Francisco Bay Area on high energy shorelines. Concepts that have been tested, including restoration of existing salt ponds within a Horizontal Levee, would not be available for Foster City since there are no salt ponds adjacent to the shoreline. Placing fill out into open bay water has never been attempted (or permitted) in the past. In addition, as stated in the Response to Comments Document, the RWQCB's comment letter to the Draft EIR states that it does not consider a horizontal levee to be feasible in segment 2 or segment 4 because there are no existing tidal wetlands or intertidal mudflats along any of the segments of the Foster City shoreline. The RWQCB stated that horizontal or otherwise gradually sloped levees are most effective where they can be placed landward of existing tidal wetlands or intertidal mudflats, and where significant wave energy would not result in the development of scarps and similar erosional features.

It is possible that in the future additional fill would be required (both height of fill and its extent into the bay) to maintain flood protection with rising sea level. If sea level rises as predicted, it would be necessary to cover over again all the developed biotic habitat with fill in the future. Therefore, it is uncertain whether objective 3 would be achieved, which specifies that the project should be able to provide protection from current anticipated sea level rise, as well as flexibility to adapt to increased levels of protection in the future as needed. Additionally, prime areas for windsurfers and kite surfers would be taken away along segment 2 because the gradual slope of the Horizontal Levee would extend into the bay resulting in shallower depths along the shoreline (therefore not satisfying objective 4).

This alternative would substantially increase short-term impacts to sensitive habitats such as jurisdictional waters of the U.S. and state (including wetlands) on the bayside of the existing levee and result in direct impacts to fully tidal waters (and would therefore not satisfy objective 5 or 7).

The Commission finds that the Existing Levee Footprint 2050 Alternative would result in increased environmental effects in comparison to the proposed project, and fails to meet the key project objectives, including the primary objective of retaining FEMA accreditation. Based on the foregoing findings, the Commission rejects the Horizontal Levee 2050 Sea Level Rise Alternative as infeasible.

4. FEMA Freeboard Alternative

a. Description

The FEMA Freeboard Alternative assumes the project site would be located within the footprint of the approximately 43,000-linear-foot (8 miles) existing levee system with a slight deviation to the west within segment 4 similar to the proposed project scenarios. This alternative would have the same levee improvement types and locations as the proposed project's 2050 Sea Level Rise project scenario but the top elevation for the

levee/floodwall would be lower as it would only meet the elevations necessary to retain FEMA accreditation. The current levee ranges from 11–13 feet and it would range from 12.5–16.5 feet under this alternative (under the 2050 Sea Level Rise project scenario it would increase from 13.5–19 feet). The wide elevation range of the FEMA Freeboard Alternative is a result of the transition from the open San Francisco Bay which has significant wave run-up (energy associated with waves) requiring a higher levee to the mouth of the Belmont Slough, where there is no significant wave run-up resulting in a lower levee elevation. This alternative would only require 7,000–8,000 cubic yards of fill to raise the elevation of the levee.

b. Comparison to Project

The FEMA Freeboard Alternative would generally result in incrementally less severe environmental impacts in comparison to the proposed project for air quality, biological resources, greenhouse gas emissions, noise and vibration, traffic and transportation, and recreation because there would be less fill required to raise the levee elevation. This would result in fewer truck trips, a shorter construction schedule, less noise from hauling trucks, and lower emissions during construction.

Unlike the 2050 Sea Level Rise project scenario, the FEMA Freeboard Alternative, the levee elevation for would only be 12.5–16 feet at Shorebird Park in contrast with 2050 Sea Level Rise project scenario (elevation of 13.5–18 feet) and 2100 Sea Level Rise project scenario (elevation of 16–21.5 feet)..

In Sea Cloud Park, the increase in elevation for this alternative would match that of 2050 Sea Level Rise project scenario with an elevation of 13.5 feet; therefore, the impact on visual quality and scenic vistas would be identical to 2050 Sea Level Rise project scenario. This impact would be incrementally less than the 2100 Sea Level Rise project scenario that has an elevation of 16 feet and blocks views of the Belmont Hills. Although this impact would be less than significant in Sea Cloud Park (segment 6), this impact would remain significant and unavoidable in Shorebird Park (segment 4). This alternative would also result in the same significant and unavoidable noise impacts related to the operation of construction equipment on the project site and staging areas.

c. Findings

The Commission finds that and even though the Existing Levee Footprint 2050 Alternative is the environmentally superior alternative because many of its environmentally impacts would be slightly less than the proposed project due to less fill and reduced height, it would not meet the project objective of providing protection from anticipated sea level rise and would not avoid the project's two significant unavoidable impacts related to aesthetics and noise. Based on the foregoing findings, the Commission rejects the FEMA Freeboard Alternative as infeasible.

E. STATEMENT OF OVERRIDING CONDITIONS

1. Overriding Considerations

The Commission has considered the project's significant and unavoidable impacts set forth above, and weighed the benefits of the project against the unavoidable environmental impacts under CEQA. The Commission hereby finds that for the reasons set forth below, the project's benefits, (including environmental, safety, legal, social, and other considerations of the project) outweigh and make acceptable the two related and unavoidable impacts identified above, and adopts and makes this statement of overriding considerations. The Commission further finds that each benefit specified below independently provides a sufficient basis to outweigh the project's significant unavoidable impacts.

The Commission also finds that the two significant unavoidable impacts that would result from the project would also result from any other large-scale infrastructure project developed on the project site. The identified significant unavoidable noise impacts are largely a function of the project site being located in an urban setting. However, these construction impacts would be temporary and would only occur during intermittent periods when certain construction activities occur. In addition, not increasing the height of the levee at all is the only means identified in the Final EIR to substantially reduce or avoid the significant unavoidable environmental aesthetic effects of the project. However, doing so would prevent achievement of the primary project objectives and would diminish all of the project's benefits, as outlined below. The Commission finds that the benefits of the project outweigh the benefits of any of the other alternatives examined, including the alternatives deemed infeasible in Section D, above.

2. Benefits of the Project

The expected benefits of the project include:

a. Retain FEMA Accreditation and Adaptability to Sea Level Rise

In July 2014, FEMA completed the Central San Francisco Bay Coastal Flood Hazard Study as part of the California Coastal Analysis and Mapping Program (CCAMP). Results of the study will be used by FEMA to revise the FIRMs for San Francisco Bay communities, which include Foster City; the new FIRMs are anticipated to be released in mid-2017. The Coastal Flood Hazard Study indicated that approximately 85 percent of Foster City's levees are freeboard deficient and will not retain FEMA accreditation unless improvements are made.

The proposed project would provide flood protection in accordance with updated FEMA guidelines to retain FEMA levee accreditation. Mandatory flood insurance for residents in the area carrying Federally-backed mortgages would not be triggered and not would flood-related restrictions on building and improvements in the area. The proposed project

would also provide protection from current anticipated sea level rise, as well as flexibility to adapt to increased levels of protection in the future, as needed.

b. Reduce Risk of Harm to Life and Property in Foster City

Approximately 9,000 individual properties in Foster City rely on the existing levee system for flood protection. An additional 8,000 individual properties within the city of San Mateo are also protected, in part, by the Foster City levee system (i.e., if the Foster City levee was not in place, flood waters associated with storm surge and extreme high tides in San Francisco Bay could flow overland through Foster City, reaching San Mateo from the east and southeast).

In July 2014, FEMA completed the Central San Francisco Bay Coastal Flood Hazard Study as part of the California Coastal Analysis and Mapping Program (CCAMP). Results of the study will be used by FEMA to revise the FIRMs for San Francisco Bay communities, which include Foster City; the new FIRMs are anticipated to be released in mid-2017. The Coastal Flood Hazard Study indicated that approximately 85 percent of Foster City's levees are freeboard deficient and will not retain FEMA accreditation unless improvements are made.

Implementation of the proposed project would provide flood protection in accordance with updated FEMA guidelines and to retain FEMA levee accreditation which would substantially reduce the risk of injury, death, and property and other economic damage that could be caused by a catastrophic flood in Foster City.

c. Preserve, Restore, and Enhance Wildlife Habitat

The project will provide ecosystem and habitat restoration, as well as preserving and enhancing riparian and other native habitats, where compatible with construction, operation, and maintenance of flood risk-reduction infrastructure. While construction activities and operation of the project will result in the significant and unavoidable effects listed above, the project will result in several beneficial uses of the San Francisco Bay or Belmont Slough including new landscaping to prevent erosion. The project will also implement measures to protect water quality during project construction including Construction Best Management Practices (BMPs), a Storm Water Pollution Prevention Plan (SWPPP), supervision by a Qualified SWPPP Practitioner (QSP), and water quality monitoring.

In addition, the Bay Trail will be replaced in-kind or improved; the new trail will be 14–16 feet wide (10 feet paved with a 2-foot shoulder on each side and an additional 1 foot of shoulder adjacent to vertical walls where feasible). Lastly, the mitigation measure related to compensation of wetland impacts is detailed in Mitigation Measure BIO-3 recognizes that offsetting the project's wetland impacts could entail implementation of a permittee-responsible mitigation plan that establishes or restores wetlands within uplands along the levee alignment.

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.