

RESOLUTION NO. 2022-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY ADOPTING THE NEXUS STUDIES AND ASSOCIATED IMPACT FEE PROJECT LISTS AND SETTING CHARGES FOR THE PARKS FACILITIES IMPACT FEE, TRANSPORTATION IMPACT FEE, AND PUBLIC SAFETY IMPACT FEE

CITY OF FOSTER CITY

WHEREAS, the Foster City Municipal Code (“FCMC”) imposes upon new residential and nonresidential development the requirement to pay a Parks Facilities Impact Fee (FCMC Ch. 3.50), a Transportation Impact Fee (FCMC Ch. 3.60), and a Public Safety Impact Fee (FCMC Ch. 3.70) (referred to collectively as “Mitigation Fees”); and

WHEREAS, FCMC Section 3.50.040 empowers the City Council to establish the amount of the Park Facilities Impact Fee by resolution in accordance with a nexus study that demonstrates the reasonable relationship between the fee’s use and the type of development project on which the fee will be imposed and that demonstrates the reasonable relationship between the need for park facilities and the type of development projects on which the fee will be imposed; and

WHEREAS, FCMC Section 3.60.040 empowers the City Council to establish the amount of the Transportation Impact Fee by resolution in accordance with a nexus study that demonstrates the reasonable relationship between the fee’s use and the type of development project on which the fee will be imposed and that demonstrates the reasonable relationship between the need for transportation facilities and the type of development projects on which the fee will be imposed; and

WHEREAS, FCMC Section 3.70.040 empowers the City Council to establish the amount of the Public Safety Impact Fee by resolution in accordance with a nexus study that demonstrates the reasonable relationship between the fee’s use and the type of development project on which the fee will be imposed and that demonstrates the reasonable relationship between the need for public safety facilities and the type of development projects on which the fee will be imposed; and

WHEREAS, new development projects attract new residents and employees to the City, generating an increased demand for park, transportation, and public safety facilities; and

WHEREAS, the City has determined that City parks/recreation, transportation, and public safety facilities are reaching capacity, and that the City requires a cost-effective and efficient way of serving future residents and employees while maintaining existing levels of service; and

WHEREAS, the City desires to charge the Mitigation Fees upon development projects to ensure that new development contributes its fair share to public facilities in the City consistent with the City's standards; and

WHEREAS, the City contracted with Economic & Planning Systems (EPS) to perform studies for each of the new Mitigation Fees demonstrating the reasonable relationship between the need for each fee and the type of development on which each fee will be imposed and has determined amounts for each fee based on the reasonable relationship between each fee and the type of development project on which the fee will be imposed; and

WHEREAS, EPS prepared and submitted a Foster City Comprehensive Development Impact Fee Nexus Study, dated May 2022, attached to the Staff Report, and incorporated by reference (the "Nexus Study"); and

WHEREAS, the Nexus Study substantiates a methodology that will charge each new development project only for the costs necessary to mitigate the impacts expected to be caused by that development project; and

WHEREAS, there is a reasonable relationship between the Mitigation Fees and the development projects on which the Fees will be imposed because the Fees will only fund costs necessitated by each new development; and

WHEREAS, the Mitigation Fees will not exceed the estimated reasonable cost of providing the land and facilities for which the Fees are imposed; and

WHEREAS, the Mitigation Fees will not be levied, collected or imposed for general revenue purposes, but are levied specifically to fund facilities of the types set forth in the Nexus Study; and

WHEREAS, the Nexus Study establishes proposed amounts and provides an evaluation of the need for new Mitigation Fees and establishes the nexus between the imposition of the new Fees and the estimated reasonable costs of providing the services for which the Fees are charged; and

WHEREAS, the Nexus Study identifies the City's existing level of parks, transportation, and public safety services, identifies the proposed new level of service, and includes an explanation of why the new level of service is appropriate; and

WHEREAS, the Nexus Study includes information that supports the City's actions, as required by subdivision (a) of Section 66001 of the Government Code; and

WHEREAS, the Nexus Study includes a Foster City Development Impact Fee Long-Term Capital Improvement Plan ("DIF CIP"), which serves as its capital improvement plan pursuant to subdivision (a)(6) of Section 66016.5 of the Government Code for the Mitigation Fees; and

WHEREAS, the DIF CIP indicates the approximate location, size, time of availability, and estimates of cost for all facilities or improvements to be financed with the Mitigation Fees; and

WHEREAS, the Nexus Study was presented to the City Council; and

WHEREAS, the Nexus Study calculates the Mitigation Fees that can be charged on new development, and therefore, the City Council may adopt reduced fees for certain classes of projects or land use categories if doing so effectuates a policy of the City; and

WHEREAS, in recognition of the challenges that retail establishments are facing post pandemic and the difficulty in attracting and retaining retail establishments in the City, the Council desires to set the Mitigation Fees for retail developments at reduced rates; and

WHEREAS, the City's Housing Element Update of the General Plan for the planning period 2023-2031, acknowledges that it is in the City's interest to ensure adequate housing is available for all income levels, including those who are below the City's median household income. It lists many goals and policies aimed at facilitating development of affordable housing. The City's Inclusionary Housing Ordinance also sets forth the City's commitment to enhancing the public welfare and assuring that further housing development contributes to the attainment of the housing goals of the City by increasing the production of affordable housing units; and

WHEREAS, to support and encourage the development of new affordable housing units, in the City and to help implement the aforementioned Housing Element Policies, the City desires to provide a seventy-five percent (75%) reduction for very low and low income affordable units, provided that at least twenty percent (20%) of units in the project

are designated as affordable, and a one hundred percent (100%) fee reduction for very low and low units if at least twenty-five (25%) of the units in the project are designated as affordable; and

WHEREAS, pursuant to Government Code Sections 66016, 66016.5, 66018, and 6062a and the FCMC, the City must adopt the updated Mitigation Fees only after notice and public hearing; and

WHEREAS, pursuant to Government Code Sections 66002, 66016.5, 66018, 6062a, a notice of a public hearing on the proposed fee schedule and the adoption of the Nexus Study was published on June 1, 2022 and June 8, 2022 in the Foster City Islander, a newspaper of general circulation; and

WHEREAS, pursuant to Government Code Sections 66019 and 66016.5, notice of the time and place of the meeting, including a general explanation of the matters to be considered and a statement that required data is available was mailed at least thirty (30) days prior to the meeting to those members of the public who filed a written request with the City; and

WHEREAS, at least ten (10) days prior to the public hearing referenced above, the City made available for public inspection information required under Government Code Section 66000, et seq.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FOSTER CITY AS FOLLOWS:

Section 1. Findings. The City Council finds and determines as follows:

- a) The above recitals are correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.
- b) The Mitigation Fees proposed bear a reasonable relationship to the need for park, transportation, and public safety facilities created by new development.

Section 2. Adoption of Nexus Study. The City Council finds and determines that the Nexus Study complies with California Government Code section 66000 et seq., and is consistent with the General Plan, and hereby approves and adopts the Nexus Study.

Section 3. Adoption of the DIF CIP. The City Council hereby approves and adopts the DIF CIP, included as Appendix Table A-1 in the Nexus Study.

Section 4. Rates for Mitigation Fees. The City Council hereby sets rates for the Parks Facilities Impact Fee, the Transportation Impact Fee, and the Public Safety Impact

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Fee as shown in attachment Exhibit A, attached hereto and incorporated by this reference. These rates will be incorporated into the Master Fee Schedule.

Section 5. Exemption. Pursuant to Government Code Section 65852.2(f)(2), the Mitigation Fees shall not apply to accessory dwelling units of less than 750 square feet.

Section 6. Affordable Housing. The Mitigation Fees for dwelling units designated as affordable, pursuant to FCMC section sections 17.90.020.P and 17.90.020.X will be reduced by seventy-five percent (75%) for very low and low income affordable units, provided that at least twenty percent (20%) of units in the project are designated as affordable, and reduced by one hundred percent (100%) for very low and low units if at least twenty-five (25%) of the units in the project are designated as affordable.

Section 7. Effective Date. This Resolution shall take effect immediately. In accordance with Government Code Section 66019, the updated Mitigation Fees, set forth in Exhibit A, shall be in full force and effect 60 days after the adoption of this Resolution and shall be published or posted as required by law.

Section 8. Environmental review. The City Council finds that the adoption of the amendments to the Parks Impact Fee Ordinance are not considered a project under Public Resources Code Section 21065 and CEQA Guidelines Section 15378 because the amendments do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and the amendments create government funding mechanisms which do not involve any commitment to any specific project. They are also exempt from CEQA as there is no possibility for causing a significant effect on the environment, per Section 15061(b)(3).

No specific park projects are associated with these amendments to the Parks Impact Fee Ordinance. The proposed project is policy-oriented and would establish a park standard and create a funding mechanism for future park development. When and if specific park projects are developed and proposed for implementation, the environmental impacts of such facilities would be evaluated in accordance with CEQA and City practice.

Section 9. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Resolution be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this Resolution.

The City Council hereby declares that it would have passed this and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more

sections, subsections, phrase, or clauses be declared unconstitutional on their face or as applied.

PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City on at the regular meeting held on the 20th day of June, 2022, by the following vote:

AYES: Councilmembers Froomin, Hindi, Sullivan, and Mayor Awasthi

NOES: None

ABSENT: Councilmember Gehani

ABSTAIN: None

DocuSigned by:

Richa Awasthi

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RICHAWASTHI, MAYOR

ATTEST:

DocuSigned by:

Priscilla Schaus

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PRISCILLA SCHAUS, CITY CLERK

EXHIBIT A

Foster City Development Impact Fee Alternative 1

Land Use	Parks	Public Safety	Transportation	Total Maximum Fee
Residential (per unit)				
Single Family Residential	\$14,926	\$1,594	\$2,123	\$18,644
Multifamily Residential	\$11,639	\$1,243	\$1,656	\$14,538
Non-Residential (per Sq.Ft.)				
Office (per Sq. Ft.)	\$6.24	\$1.14	\$3.62	\$11.00
Retail (per Sq. Ft.)	\$2.35	\$0.64	\$2.01	\$5.00
Industrial (per Sq. Ft.)	\$3.51	\$0.38	\$1.19	\$5.07
Hotel (per Sq. Ft.)	\$2.14	\$0.23	\$0.72	\$3.10

Source: Economic & Planning Systems

Note: A seventy-five percent (75%) reduction will be applied for very low and low income affordable units, provided that at least twenty percent (20%) of units in the project are designated as affordable, and a one hundred percent (100%) fee reduction will be applied for very low and low units if at least twenty-five (25%) of the units in the project are designated as affordable.

Foster City Development Impact Fee Alternative 2

Land Use	Parks	Public Safety	Transportation	Total Maximum Fee
Residential (per unit)				
Single Family Residential	\$14,926	\$1,594	\$2,123	\$18,644
Multifamily Residential	\$11,639	\$1,243	\$1,656	\$14,538
Non-Residential (per Sq.Ft.)				
Office (per Sq. Ft.)	\$9.24	\$1.14	\$3.62	\$14.00
Retail (per Sq. Ft.)	\$4.35	\$0.64	\$2.01	\$7.00
Industrial (per Sq. Ft.)	\$3.51	\$0.38	\$1.19	\$5.07
Hotel (per Sq. Ft.)	\$2.14	\$0.23	\$0.72	\$3.10

Source: Economic & Planning Systems

Note: A seventy-five percent (75%) reduction will be applied for very low and low income affordable units, provided that at least twenty percent (20%) of units in the project are designated as affordable, and a one hundred percent (100%) fee reduction will be applied for very low and low units if at least twenty-five (25%) of the units in the project are designated as affordable.