

**STAFF WILL PREPARE THE LEGAL LANGUAGE FOR THE FINDINGS AFTER THE COUNCIL STATES ITS CONCERNS OR POSITION REGARDING THE APPLICATION AND THE FINDINGS IT WISHES TO MAKE**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY REJECTING A MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR A PROPOSED 69,715 SQUARE FEET FIVE-STORY EXTENDED STAY HOTEL PROJECT WITH 121 GUEST ROOMS – 1299 CHESS DRIVE – NEIGHBORHOOD VINTAGE PARK (VP) – TOWNEPLACE SUITES – APN 094-901-360 – EA-12-003

CITY OF FOSTER CITY

WHEREAS, Solomon Tsai, on behalf of Fullwel International Group, Inc. has requested City approval of a five-story extended stay hotel project with 121 guest rooms at 1299 Chess Drive (APN: 094-901-360) (Project); and

WHEREAS, the City of Foster City has prepared an Initial Study and approved for circulation a Mitigated Negative Declaration (MND) for the Project prepared by Metropolitan Planning Group, Inc. in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines adopted by the Secretary of Resources, and the City of Foster City Environmental Review Guidelines (SCH #2013052035, EA-12-003); and

WHEREAS, the MND concluded that implementation of the Project could result in significant environmental impacts and identified mitigation measures that would reduce the significant impacts to a less-than-significant level; and

WHEREAS, the City transmitted for filing a Notice of Completion of the MND and in accordance with CEQA and the State CEQA Guidelines forwarded the MND to the State Clearinghouse for distribution to those state agencies that have discretionary approval or jurisdiction by law over natural resources affected by the Project; and

WHEREAS, the City provided notice to all interested persons and agencies inviting comments on the MND in accordance with the provisions of CEQA, the State CEQA Guidelines and the City of Foster City Environmental Review Guidelines; and

WHEREAS, a Notice of Availability of the MND was distributed to public agencies and made available to the general public for a 30-day public comment period beginning Wednesday May 15, 2013 and ending Monday, June 17, 2013 at 5:00 p.m.; and

WHEREAS, during the public comment period, staff received one letter from the California Department of Transportation dated June 7, 2013; and

WHEREAS, a response to the comment received from the California Department of Transportation was prepared by staff on June 28, 2013; and

WHEREAS, a Notice of Public Hearing was posted, published, and mailed for consideration of the MND at the Planning Commission Meeting of June 20, 2013, and on said date, the Public Hearing was opened, held and closed; and

WHEREAS, on June 20, 2013 the Planning Commission reviewed and considered the MND and other written correspondence, verbal testimony, staff reports, and background reports and by adoption of Resolution No. P-12-13, adopted findings and recommended City Council adoption of the MND; and

WHEREAS, copies of the MND and other documents and materials which constitute the record of the proceedings upon which this decision is based are available from the custodian of these records, the Community Development Department, at City Hall, 610 Foster City Boulevard, Foster City and are available for inspection by any interested person; and

WHEREAS, staff received four comment letters following the close of the public review and comment period; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) Guidelines (California Code of Regulations 15000 et.seq.) Section 15074(b) the decision-making body of the lead agency must consider the MND and comments received before approving the Project; and

WHEREAS, although CEQA does not require a written response to comments received during the public review process for an MND (as it does for an Environmental Impact Report (EIR)), City staff prepared and provided responses to comments in accordance with Sections 15073.5(b) and c(2) of the CEQA Guidelines to the City Council, as the decision-making body, for their consideration; and

WHEREAS, the City Council has reviewed all comments received on the Project to determine whether substantial new environmental issues have been raised. Based on the evaluation of the MND together with all comments received and responses to comments prepared by staff, the City has determined that no substantial new environmental issues have been raised that have not been adequately addressed in the MND. Therefore, no revisions to the MND were made and additional circulation of the MND pursuant to Section 15073.5 of the CEQA Guidelines is not required; and

WHEREAS, a lead agency must adopt a Mitigation Monitoring and Reporting Program (MMRP) for changes to a project that it adopts or makes a condition of project approval in order to ensure compliance with the measures during project implementation; and

WHEREAS, the MMRP set forth in the attached Exhibit A, which is incorporated herein by reference, accurately reflects the mitigation measures contained in the Final MND and in the Use Permit Conditions of Approval adopted by Resolution P-13-13; and

WHEREAS, a Notice of Public Hearing was posted, published, and mailed for consideration of the Mitigated Negative Declaration at the City Council Meeting of September 3, 2013, and on said date, the Public Hearing was opened, held and closed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Foster City, based on facts and analysis in the MND, written and oral testimony, mitigation measures included in the Project and exhibits presented, finds that:

1. The MND has not been completed in accordance with CEQA, the State CEQA Guidelines and the City of Foster City Environmental Review Guidelines because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ ; and

The MND does not adequately describe the environmental impacts of the proposed project because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ and;

2. All potentially impacts associated with the Project were found to be significant impacts that cannot be mitigated to less than significant levels because:

\_\_\_\_\_  
\_\_\_\_\_ and;

3. The MND does not reflect the independent judgment of the City because:

\_\_\_\_\_  
\_\_\_\_\_.

BE IT FURTHER RESOLVED that the City Council of the City of Foster City hereby rejects the Mitigated Negative Declaration of Environmental Impact and Mitigation Monitoring and Reporting Program (EA-12-003) for the proposed project.

Resolution No. \_\_\_\_\_

PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City at the regular meeting held on the 3<sup>rd</sup> day of September, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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PAM FRISELLA, MAYOR

ATTEST:

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DORIS L. PALMER, CITY CLERK