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DATE: JANUARY 19, 2017

## STAFF REPORT

AGENDA ITEM NO. 6.1

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TO: FOSTER CITY PLANNING COMMISSION

PREPARED BY: MARLENE SUBHASHINI, SENIOR PLANNER

CASE NO.: EA-15-002 – FOSTER CITY LEVEE PROTECTION PLANNING AND IMPROVEMENTS PROJECT – DRAFT ENVIRONMENTAL IMPACT REPORT

OWNER: CITY OF FOSTER CITY

PROJECT LOCATION: CITYWIDE

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### **REQUESTED ACTION/PURPOSE**

To receive public comments on the adequacy of the Draft Environmental Impact Report (EIR) for the Levee Protection Planning and Improvements Project (Capital Improvement Planning Project No. 301-657). The public should be directed to comment on the adequacy of the Draft EIR and focus on deficiencies in the information or analysis included in the Draft EIR, rather than offering opinions in support or against certain features of the project.

The role of the Planning Commission at the January 19, 2017 Public Hearing is solely to provide the public and the Planning Commission with an opportunity to present comments on whether the information presented in the Draft EIR adequately covers the environmental impacts that could result from the proposed project, and to make sure public comments are received by staff and the EIR consultant for incorporation, along with responses, into the Final EIR.

The Planning Commission will hold a separate Public Hearing to make a recommendation to the City Council on whether or not to certify the EIR. Members of the public who wish to make comments in support of or against certain aspects of the project, rather than the adequacy of the Draft EIR, should be directed to make them verbally or in writing at the hearing that will be held by the City Council on the project later this year.

### **RECOMMENDATION**

In accordance with the “The City of Foster City Environmental Review Guidelines” (Section I, Subsections 5(d) and 5(e), the Planning Commission shall hold a Public Hearing to receive testimony focused on the adequacy of the Draft EIR in discussing possible impacts upon the environment, ways in which adverse effects might be minimized, and alternatives to the project presented in the Draft EIR for the proposed project. After the public has had sufficient opportunity to present testimony on the adequacy of the Draft EIR, staff recommends that the Planning Commission close the Public Hearing. The Commission should state any comments it has regarding the adequacy of the Draft EIR. All comments received at this meeting, as well as in writing prior to January 12, 2017 (the end of the public comment period), will be responded to in writing as part of the Final EIR.

## **BACKGROUND**

### PROJECT OVERVIEW

The proposed project analyzed in the Draft EIR includes approximately 43,000-linear-foot (8 miles) of the existing levee system that surrounds Foster City along the bayfront with a slight deviation from the existing levee system footprint, and includes six (6) proposed construction staging areas.

The existing levee system was originally authorized by the US Army Corps of Engineers (Corps) Section 404 Clean Water Act Regulatory Program on February 20, 1976 (Permit No. 9318-49) to protect properties interior of the levee from flooding as a result of levee overtopping either from high tides (stillwater or storm surges) and/or wave runup. Approximately 9,000 properties in Foster City are protected from the one-percent annual chance of flooding by the existing levee system that was primarily designed for flood protection. An additional 8,000 properties in the City of San Mateo are also protected by the Foster City levee system. Conversely, properties in Foster City are protected from the one-percent flood by San Mateo's levee and floodwall systems south of San Mateo Creek.

The City's levee system has been subsequently improved over time in order to maintain Federal Emergency Management Agency (FEMA) levee accreditation and was last re-accredited by FEMA in 2007. Updated FEMA flood hazard information was provided to the City in 2014 and codified in the FEMA preliminary Flood Insurance Rate Mapping (FIRM) released on August 13, 2015. Current FEMA guidelines require the current levee elevation along the City's levee system to be raised to protect the City from flooding associated with levee overtopping from extreme high tides (stillwater or storm surges) and/or wave runup.

The purpose of the project is to provide flood protection in accordance with updated FEMA guidelines and retain FEMA accreditation for its existing levee system. In addition, 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 habitat and species. If FEMA accreditation is not achieved, approximately 17,000 individual properties within Foster City and San Mateo will be placed in a high-risk Special Flood Hazard Area by FEMA, due to the risks associated with levee overtopping from high tides (stillwater or storm surges) and/or wave runup and will be required to purchase flood insurance if they have a federally-backed loan on their property and owners selling property in Foster City will be required to disclose the flood zone designation as part of the sale.

The precise design and height of the project is not yet finalized; therefore, the environmental analysis studies two scenarios at an equal level, which would have different ranges of levee elevations/floodwall heights as needed to meet FEMA freeboard requirements and protect against future sea level rise. "Freeboard" is additional levee height above the 100-year flood elevation that tends to compensate for the factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action and the hydrological effect of urbanization of the watershed. The two scenarios are:

1. FEMA Freeboard with Sea Level Rise for the Year 2050
2. FEMA Freeboard with Sea Level Rise for the Year 2100

Based on currently available data, preliminary evaluations, and City Council direction, the City anticipates that the project will utilize a combination of three different levee improvement types, depending on the location along the existing levee and the adjacent site constraints. These three levee improvement types are as follows:

1. Sheet Pile floodwall
2. Earthen levee
3. Conventional floodwall

This hybrid approach (combining improvement types 1, 2 and 3) would provide the most flexibility to meet current FEMA standards and retain FEMA accreditation and would also achieve the following: (a) maintain public access and recreational opportunities; (b) minimize and/or avoid impacts to sensitive habitats such as jurisdictional waters of the U.S. and State (including wetlands) within San Francisco Bay; (c) minimize impacts to sensitive habitats such as jurisdictional waters of the U.S. and State on the landward side of the levee; and (d) 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.

## PUBLIC NOTICING

The City initially issued a Notice of Preparation (NOP) of the EIR on January 5, 2016 and then issued a revised NOP on August 12, 2016 with certain modifications to the scope of the project which included a slight deviation from the original project footprint and the addition of a third improvement type. A Public Scoping Session was held on February 4, 2016 to obtain public input on the scope of the EIR. Comments received by the City on the NOP were taken into account during the preparation of the Draft EIR.

The Draft EIR for the project was prepared by Urban Planning Partners, LLC and was published on November 23, 2016 and made available for a 45-day public review period extending through January 12, 2017. Copies of the Draft EIR were distributed to all affected agencies, City departments, the Planning Commission and City Council members. The Notice of Availability for the Draft EIR (attached), which announces the availability of the document for public review, and notice of the January 19, 2017 Planning Commission Public Hearing, was published in:

- ½ page ad in the Islander on December 21, 2016 and January 4, 2017

The Notice of the Draft EIR Availability was also mailed to or posted to the following:

- Electronic mailing to the property applications, owners and persons who expressed interest in receiving project updates via listserv
- Foster City website: [www.fostercity.org](http://www.fostercity.org)
- Electronic marquee at Leo Ryan Park

Copies of the Draft EIR are available at the City's website, in the Foster City Library and City Hall. Copies on CD are also available at City Hall.

## PURPOSE OF EIR

The California Environmental Quality Act (CEQA) requires that an EIR be prepared for any project that may result in one or more significant environmental impacts. "The purpose of an EIR is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." (CEQA, Section 21102.1) An EIR should focus on impacts that are significant or potentially significant; the EIR should include only a brief explanation of impacts that are less than significant. (CEQA, Section 21002.1 (e)). An EIR is defined in CEQA in Section 21061 of the Public Resources Code as follows:

*“An environmental impact report is an informational document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.”*

CEQA acknowledges that environmental impacts are not the only factors to be considered prior to action on a project. After the EIR is certified as an adequate informational document, the City Council retains the ability to set policy based on what it deems to be in the best interests of the City despite the fact that the EIR may point out potentially significant impacts of the project. The purpose of the EIR is to ensure that the public and decision-makers are informed of project impacts, and to avoid or mitigate adverse impacts where feasible; the purpose is not to dictate the outcome of the proposed project. If a proposal is approved which will have significant environmental impacts, the decision-making body must make findings explaining why this decision was made.

CEQA documents need to be prepared concurrently with the preliminary design and regulatory permitting of the levee improvements. The EIR for the project must be certified before the various regulatory permitting agencies will act on the levee permits.

## OVERVIEW OF EIR PROCESS

The preparation of an EIR is a multiple step process designed to provide opportunities to integrate environmental factors into project planning and decision-making. The primary steps for the Lead Agency (the City) in the EIR process are the following, shown with check marks next to the items completed to date:

- Determine scope, content, and focus of the EIR
- Prepare Notice of Preparation (NOP) and distribute to Responsible and Trustee Agencies
- Receive responses to the NOP
- Complete Draft EIR and publish
- File Notice of Completion with the State Clearinghouse
- Publish a public notice of availability of Draft EIR and start of 45-day public review period
- Accept comments on the adequacy of the Draft EIR
- Prepare written responses to all comments received on the Draft EIR and publish Final EIR which includes all the responses and any necessary changes to the Draft EIR
- Send a copy of Final EIR responses to comments to commenting agencies at least 10 days before City Council decision on Final EIR certification
- Present Final EIR (responses to comments) and findings regarding the EIR conclusions (e.g., significant impacts and mitigation measures) to the Planning Commission, at which time the Commission will be requested to make a recommendation to the City Council regarding approval (certification) of the EIR as well as other project applications
- Present Planning Commission recommendation and findings on the Final EIR to City Council for consideration
- Certify the Final EIR by the City Council
- Adopt findings regarding significant impacts and appropriate mitigation measures by City Council
- Adopt Statement of Overriding Consideration (if necessary) for significant and unavoidable impacts by the City Council

## PURPOSE OF PUBLIC HEARING

The *City of Foster City Environmental Review Guidelines* require the Planning Commission to conduct a Public Hearing at the end of the 45-day public review period to provide the general public an opportunity to verbally communicate any comments they may have regarding the adequacy of the Draft EIR. The State CEQA Guidelines encourage, but do not require, Public Hearings to take comments on the Draft EIR.

Comments on the Draft EIR may be submitted orally or in writing at the January 19, 2017 Public Hearing or in writing to the Community Development Department before 5:00pm on January 12, 2017. As required by CEQA, responses to all comments will be prepared, and both comments and responses will be included in the Final EIR. Following completion of the Final EIR, the Planning Commission and City Council will hold Public Hearings on the project, including action on the Final EIR.

## **ANALYSIS**

### OVERVIEW

The proposed project is subject to review under the provisions of CEQA, and Title 2, Administration and Personnel, and Title 17, Zoning, of the Foster City Municipal Code. Actions and permits that must be taken and approved by the City include the following:

- Environmental Assessment (File No EA-15-002);

At the Planning Commission Hearing, the Commission will not be requested to take any action other than to open the Public Hearing, hear comments from the public and discuss/provide comments on the adequacy of the Draft EIR.

A Planning Commission Public Hearing will be held later this year at which time the Commission will be requested to make a recommendation to the City Council regarding certification of the Final EIR. The City Council will hold a Public Hearing to consider certification of the Final EIR following the recommendation by the Planning Commission.

### EIR SCOPE

As discussed above, the City used a formal scoping process to solicit comments and suggestions on the scope of the EIR. The Draft EIR for the Levee Protection Planning and Improvements Project focuses on the following environmental issues, which were identified in the EIR Scoping and NOP process as having the potential to have a significant environmental effect:

- A. Aesthetics and Shade and Shadow
- B. Air Quality
- C. Biological Resources
- D. Cultural Resources
- E. Soils, Geology, and Seismicity
- F. Greenhouse Gas Emissions
- G. Hazards and Hazardous Materials
- H. Hydrology and Water Quality
- I. Land Use
- J. Noise and Vibration
- K. Traffic and Transportation

## L. Recreation

In addition, the Draft EIR includes an analysis of the project's consistency with relevant City and regional planning policies, as well as examines potential alternatives to the proposed project.

CEQA requires that a Draft EIR describe a range of reasonable alternatives to the project or project location that could feasibly attain most of the basic project objectives and would avoid or substantially lessen any of the significant environmental impacts of the proposed project. The analysis of alternatives is of benefit to decision-makers since it provides more complete information about the impacts of land use decisions, and consequently a better understanding of the inter-relationships between land use, traffic levels of service, air quality impacts, noise, etc. The Draft EIR studied the following alternatives, which are explained in more detail in Chapter VI of the Draft EIR.

- No Project/No Build Alternative
- Existing Levee Footprint 2050 Alternative
- Horizontal Levee 2050 Alternative
- FEMA Freeboard Alternative

## SUMMARY OF KEY FINDINGS

Chapter II of the Draft EIR provides a summary of the environmental impacts and recommended mitigation measures for the proposed project. See attached excerpt from the Draft EIR that includes a Summary of Impacts and Mitigation Measures. The Draft EIR concludes that implementation of the project has the potential to generate environmental impacts in some areas. Impacts in the following areas would be potentially significant, but would be reduced to a less-than-significant level by implementation of the recommended mitigation measures.

- Aesthetics and Shade and Shadow (some impacts were also identified as significant and unavoidable as described on the following page)
- Air Quality
- Biological Resources
- Cultural Resources
- Soils, Geology, and Seismicity
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise and Vibration (some impacts were also identified as significant and unavoidable as described on the following page)
- Traffic and Transportation
- Recreation

## AESTHETICS AND SHADE AND SHADOW

The Draft EIR evaluated the potential effects of the proposed project on visual resources in the vicinity of a project site. Visual resources are the natural and cultural features of the landscape that can be seen and that contribute to the public's appreciative enjoyment of the environment. The levee is divided into eight different segments to provide site-specific detail, as illustrated in Figure V.A-1 on page 116 of the Draft EIR. The eight segments begin at the San Mateo city limit to the north (adjacent to East 3rd Avenue), extend parallel to Beach Park Boulevard and Belmont Slough to the east and southeast, and end adjacent to U.S. Highway 101 to the south (at the San Mateo/Belmont city limit). Most of the project site has raised earthen levees, with the exception of the southeast portion of the site (segment 8), which has several sections of raised

earthen levees with concrete floodwalls. The San Francisco Bay Trail (Bay Trail) is a multi-purpose recreational trail that runs either on top of or immediately adjacent to the levee, and is generally paved throughout the entire levee system. The Bay Trail provides scenic vistas of San Francisco Bay and Belmont Slough. According to the City's General Plan EIR there are no official scenic vistas in Foster City; however there are several scenic resources including the Belmont Slough and San Francisco Bay. For the purpose of providing a conservative analysis the Belmont Hills are also considered a scenic resource. To assess the magnitude of the impacts, eleven representative viewpoints were selected along the length of the project site. Visual simulations showing before and after conditions of the viewpoints as they would appear under two scenarios: 2050 Sea Level Rise and 2100 Sea Level Rise are provided in the Draft EIR (Figures V.A-9 through V.A-20). The Draft EIR finds that 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 as described below.

#### Segment 4 - Beach Park Boulevard/Tarpon Street to Foster City Boulevard

Under the 2050 Sea Level Rise and 2100 Sea Level Rise scenarios, the levee elevation would be raised by approximately 2.5–7 feet and 5–10.5 feet, respectively, with levee elevations decreasing toward the southern end of the segment. Shorebird Park is located toward the southern end of this segment, and Viewpoint 7 is just south of Shorebird Park, as shown in Figure V.A-16 in the Draft EIR. The park includes several picnic benches. Although levee elevations would be generally lower in this segment than in segments 2 and 3, the views of San Francisco Bay would remain partially obscured for recreationists including people sitting on benches in Shorebird Park. Therefore, the overall impact to scenic vistas and visual character along segment 4 would be significant under the 2050 Sea Level Rise and 2100 Sea Level Rise scenarios.

#### Segment 6 – Belmont Slough to Gateshead Park

Under the 2050 and 2100 Sea Level Rise scenarios, the levee elevation would be raised by approximately 1.5 feet and 4 feet, respectively. No major roads are adjacent to this segment; thus, only recreationists and residents would be affected.

The sheet pile wall would be a maximum of 3.5 feet higher than the Bay Trail, which would make the view for recreationists along the Bay Trail only slightly obstructed. Sea Cloud Park is at the northeastern end of this segment and Gateshead Park is at the southwestern end. Sea Cloud Park is used for athletic pursuits such as baseball and soccer, while Gateshead Park is primarily defined by its large shade trees. Although the views of Belmont Slough (which would be obstructed by the levee elevation increase) are not an important characteristic of either park, the Belmont Hills are considered a valued scenic vista and views of these hills would be fully obstructed under the 2100 Sea Level Rise scenario. Viewpoint 9 in Figure V.A-18 of the Draft EIR shows the proposed views from the Bay Trail south of Sea Cloud Park beyond the southern-most baseball field. Views of the Belmont Hills are only partially obstructed and therefore, the impact along this segment would be less than significant for recreationists under the 2050 Sea Level Rise scenario. However, since views of the Belmont Hills would be fully blocked under the 2100 Sea Level Rise scenario, the impact to scenic vistas and visual quality along this segment would be significant for recreationists.

Implementation of the following mitigation measure would help reduce adverse changes to the visual quality and loss of scenic vistas, however, the impact would remain significant and unavoidable because the installation of a sheet pile floodwall would result in a substantial

permanent change in the visual quality of the surroundings and block scenic vistas of the bay (segment 4) and Belmont Hills (segment 6).

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.

## NOISE AND VIBRATION

The Draft EIR evaluated potential noise and vibration impacts associated with the proposed project to sensitive receptors. Sensitive receptors are defined as land uses where noise-sensitive people may be present or where noise-sensitive activities may occur. Examples of noise-sensitive land uses include residences, schools, hospitals, and retirement homes. Examples of noise-sensitive activities are those that occur in locations such as churches and libraries. The noise generated from construction of the proposed project would occur as a result of the use of construction equipment on the project site, including in the staging areas. The Draft EIR finds that operation of the construction equipment on the levee project site and in the staging areas could result in the exposure of nearby sensitive receptors, such as residences and schools 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).

As discussed in Chapter III of the Draft EIR, the proposed project includes two scenarios: (1) 2050 Sea Level Rise and (2) 2100 Sea Level Rise. The 2100 Sea Level Rise scenario takes into account the maximum sea level rise among both scenarios, thereby requiring more sheet pile floodwalls, a longer construction period, and a wider footprint (i.e., closer to the sensitive receptors). The nearest sensitive receptors to each segment of the project are residences. As summarized in Table V.J-3 of the draft EIR, the distances to nearby residences range from approximately 5 to 685 feet under the 2050 Sea Level Rise scenario and from 5 to 680 feet under the 2100 Sea Level Rise scenario. Construction is expected to occur over a period of about 1.5–2 years for the 2050 Sea Level Rise scenario and about 2–2.5 years for the 2100 Sea Level Rise scenario (though the schedules are subject to change). Construction noise levels at the nearest sensitive receptors would vary from day to day, depending on the number and condition of the equipment being used, the types and duration of activity being performed, the distance between the noise source and the sensitive receptor, and the presence or absence of barriers, if any, between the noise source and sensitive receptor. As discussed in *Chapter III, Project Description* of the Draft EIR, construction activities would consist of three primary activities: (1) sheet pile placement and/or wall construction; (2) fill placement and Bay Trail reconstruction; and (3) wall aesthetic enhancement and landscaping.

Noise standards applicable to this project are promulgated by the State of California, the Foster City General Plan, and the noise ordinance of the Foster City Municipal Code. Section 17.68.030 of the Municipal Code prohibits noise exceeding 100 dBA at the producer's property plane. The property plane for the project site is considered as the project site boundary, which is the 2050 Sea Level Rise scenario footprint and the 2100 Sea Level Rise scenario footprint. The project site boundary for the 2100 Sea Level Rise scenario is slightly larger than the 2050 Sea Level Rise scenario site boundary. Heavy construction equipment would not operate outside these project site boundaries. Based on the results of noise calculation presented in Table V.J-11 of the Draft EIR, noise levels would be less than 100 dBA at a distance of 60 feet or farther.

The width of the project site along the levee alignment under any scenario would range from approximately 30 to 50 feet. Although most equipment would operate in the middle of the site at the levee structure, noise levels would be much louder when equipment operates closer to the property plane. Based on the values in Table V.J-11 of the Draft EIR, noise levels generated from the construction activities would have the potential to exceed 100 dBA at the producer's property plane under both the 2050 Sea Level Rise and 2100 Sea Level Rise scenarios. Therefore, the potential of the proposed project to generate noise levels that would exceed City regulations is considered significant.

No residences are located within 60 feet of levee segments 1 through 4 under either the 2050 Sea Level Rise or 2100 Sea Level Rise scenarios. Consequently, the proposed project would not expose persons to noise levels greater than 100 dBA along these segments. There are residences located within 60 feet of two staging areas identified in Figure III-1 of the Draft EIR (the 5.4-acre staging area located along Beach Park Boulevard between Bridgeview Park and Foster City Boulevard, and the 3.8-acre staging area along the edge of the Dredge Disposal Site on the landward side of the levee, between Sea Cloud Park and the southern end of Wheel House Lane, adjacent to Belmont Slough). However, because the staging areas for the proposed project could change, and other potential staging areas could also be located in areas where nearby sensitive receptors are within 60 feet, noise impacts at the staging areas are conservatively considered significant. Furthermore, there are residences located within 60 feet of levee segments 5 through 8 under both the 2050 Sea Level Rise scenario and 2100 Sea Level Rise scenario. Therefore, the proposed project would have the potential to expose sensitive receptors to noise levels greater than 100 dBA along these segments and staging areas. This is a significant impact.

Mitigation Measure NOISE-3: Implementation of the following mitigation measures is recommended for 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. These measures are summarized below:

Noise-3a: Residences and landowners 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: 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 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 of Draft EIR) 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 above mitigation measures 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.

## BASIS FOR EVALUATING THE ADEQUACY OF THE DRAFT EIR

Section 15151 of the State CEQA Guidelines includes the following standard for judging the adequacy of an Environmental Impact Report:

*“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonable feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreements among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.”*

Further, the State Supreme Court in its 1988 *Laurel Heights* decision held that the purpose of CEQA is to compel government at all levels to make decisions with environmental consequences in mind. CEQA does not guarantee that these decisions will always favor environmental considerations over others, nor does it require absolute perfection in an EIR.

## SUMMARY OF COMMENTS RECEIVED TO DATE

As of the writing of this report (January 12, 2017), four comment letters on the Draft EIR have been received and are attached to the staff report. Staff will bring copies of any additional letters received to the meeting. Any written or oral comments that are received prior to the end of the public review period will be responded to in the Final EIR.

## **NEXT STEPS**

### FINAL EIR PREPARATION

The preparation of the Final EIR will take place over the next several weeks and will incorporate the responses to comments received on the Draft EIR and any necessary modifications to the Draft EIR.

After the Final EIR is available, the Planning Commission will be requested to make a recommendation to the City Council regarding certification of the Final EIR. At the Public Hearing, the public will have an additional opportunity to comment on the merits of the proposed project.

## **INDIVIDUALS, ORGANIZATIONS, AND DOCUMENTS CONSULTED**

Urban Planning Partners, Inc.  
State CEQA Guidelines  
Foster City Environmental Review Guidelines

### ATTACHMENTS

- Attachment 1: Notice of Availability of Draft EIR (including Figure1: Site Location)
- Attachment 2: Table II-1: Summary of Impacts & Mitigation Measures, Draft EIR pages 18-47
- Attachment 3: Comments from Bob Cushman of 602 Greenwich Lane, Foster City, CA
- Attachment 4: Letter from Caltrans dated January 5, 2017
- Attachment 5: Letter from Association of Bay Area Governments dated January 10, 2017
- Attachment 6: Letter from The California State Lands Commission dated January 11, 2017