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DATE: APRIL 18, 2017

## STAFF REPORT

AGENDA ITEM NO. 8.3

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TO: FOSTER CITY PLANNING COMMISSION

PREPARED BY: MARLENE SUBHASHINI, PLANNING MANAGER

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

OWNER: CITY OF FOSTER CITY

PROJECT LOCATION: CITYWIDE

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### **REQUESTED ACTION/PURPOSE**

The purpose of this Public Hearing is for the Planning Commission to review and consider the Final Environmental Impact Report (Final EIR) for the Foster City Levee Protection Planning and Improvements Project (CIP 301-657). The Final EIR analyzed potential environmental impacts of the project and includes all the responses to comments made prior to the close of the Public Review period on the Draft EIR and any text changes to the Draft EIR. Staff requests the Planning Commission make a recommendation to the City Council on certification of the Environmental Impact Report (EIR).

### **RECOMMENDATION**

Staff recommends that the Planning Commission adopt the following Resolution:

- Environmental Assessment (File No. EA-15-002)
  - *Recommendation to the City Council to certify the Levee Protection Planning and Improvements Project EIR*

### **BACKGROUND**

#### ***Project Overview***

The proposed project analyzed in the 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 City's existing levee system was built 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. The levee 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 Levee project objectives include:

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 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. Based on the estimated future sea level rise projections by the National Research Council (NRC 2012) for the City and County of San Francisco, the current recommended sea level rise planning scenarios for Foster City in the year 2050 and 2100 are 1.25 and 3.83 feet, respectively. Including this additional height beyond the FEMA freeboard requirement in both scenarios provides a means for the City to adapt to future sea level rise due to climate change and would prolong the life of the project. 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 as well as achieve the project objectives listed above.

### ***Public Review***

The Foster City Planning Commission has held two (2) Public Hearings as listed below as part of the Environmental Review process. City staff notified residents and property owners in various ways throughout the public review process. The Planning Commission held the following Public Hearings:

- February 4, 2016
  - EIR Scoping Session. Identified issues for review and study in the EIR.

- January 19, 2017
  - Review and receive public comments on the adequacy of the Draft EIR.

## **PUBLIC NOTICING**

The public was advised of the April 18, 2017 Public Hearing in the following ways:

- ¼ page ad in the *Foster City Islander* – April 5, 2017
- Electronic mailing to the project applicants, owners, and persons who expressed interest in receiving project updates – April 4, 2017
- Information page on Foster City Website: [www.fostercity.org](http://www.fostercity.org) – April 4, 2017
- Foster City TV Channel 27 – April 4, 2017 – April 18, 2017
- Electronic Marquee Sign in Leo Ryan Park – April 11, 2017 – April 18, 2017
- Public Posting Places – March 30, 2017
- Foster City Current – April 3, 2017
- Social Media – Facebook, Twitter and Nextdoor – April 13, 2017

## **ANALYSIS**

### ***Environmental Impact Report***

The preparation of an EIR is a multiple step process designed to provide opportunities to integrate environmental factors into project planning and decision-making. All procedural requirements under the City's rules and regulations, noticing requirements, and environmental guidelines have been followed or exceeded. 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 and publish Draft EIR
- 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 public comments on the adequacy of the Draft EIR
- Prepare written responses to all comments received on the Draft EIR and publish the Response to Comments (RTC) Document which includes the comments, responses to the comments, and text revisions to the Draft EIR in response to the comments received and/or to amplify or clarify material in the Draft EIR.
- Send a copy of RTC Document to commenting agencies at least 10 days before City Council decision on Final EIR certification
- Present Final EIR (comprised of the Draft EIR and the RTC Document) to the Planning Commission, at which time the Commission will be requested to make a recommendation to the City Council regarding certification of the EIR
- Present the Planning Commission recommendation on certification of the EIR, and present the project, the CEQA Findings and Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program to City Council for consideration, adoption and approval.

**Draft EIR.** The Draft EIR was published on November 23, 2016 and distributed to the Planning Commission, applicable local and State agencies. Copies of the Notice of Availability of the

Draft EIR (NOA) were mailed to all individuals previously requesting to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP.

The Draft EIR identifies the likely environmental impacts associated with the implementation of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. The majority of the impacts identified would be mitigated to a less-than-significant level with implementation of the recommended mitigation measures. Chapter II of the Draft EIR provides a summary of the environmental impacts and recommended mitigation measures for the proposed project. A Summary of all Impacts and Mitigation Measures recommended to reduce potentially significant impacts to a less-than-significant level is also attached to this report (Attachment 2).

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

However, the draft EIR concluded that the following two environmental impacts would be significant and unavoidable:

- Aesthetics and Shade and Shadow (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.
- Noise and Vibration (NOISE-3) – 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).

A more detailed discussion on each of these significant unavoidable impacts is described in the Draft EIR (Sections V.A and V.J) and the Planning Commission Staff Report dated January 19, 2017 (Attachment 3).

The CEQA Guidelines require the analysis of a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the project's basic objectives and avoid or substantially lessen any of the significant effects of the project. The range of alternatives required in an EIR is governed by the "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. An EIR does not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of

potentially feasible alternatives that will foster informed decision-making and public participation. The four alternatives studied in the Draft EIR are summarized below:

**Table 1 – Summary of Alternatives**

<b>Alternative</b>	<b>Description</b>
No Project/No Build Alternative	Assumes the project would not be developed. The existing levee would remain in its current condition
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. This alternative assumes the same levee improvement types as described under the proposed project's 2050 Sea Level Rise project scenario. Unlike 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.

**Final EIR.** The 45-day public comment period for the Draft EIR began on November 23, 2016 and ended on January 12, 2017. A public hearing was held for the Draft EIR to receive comments on the adequacy of the Draft EIR on January 19, 2017. Members of the public provided comments at the public hearing. During the 45-day comment period, the City also received written comments from various agencies and three individuals. The agencies and individuals that submitted written and/or verbal comments are listed in Table 2.

Following the close of the 45-day public review period, a Response to Comments (RTC) Document was prepared to document responses to comments received on the Draft EIR (Attachment 4). The RTC document includes: a short description of the environmental review process, the comments that were received on the Draft EIR and responses to those comments, and text revisions to the Draft EIR in response to the comments received and/or to amplify or clarify material in the Draft EIR. The RTC document, together with the Draft EIR, constitutes the Final EIR for the proposed Levee Protection Planning and Improvements Project.

**Table 2 – Comments Received**

<b>State, Local and Regional Agencies</b>		
A1	San Francisco Bay Regional Water Quality Control Board	January 19, 2017
A2	The Alameda County Flood Control & Water Conservation District	January 12, 2017
A3	California State Coastal Conservancy	January 12, 2017
A4	California State Lands Commission	January 11, 2017
A5	San Francisco Bay Trail	January 10, 2017
A6	Governor's Office of Planning and Research State Clearinghouse and Planning Unit	January 9, 2017
A7	California Department Of Transportation	January 5, 2017
<b>Individuals</b>		
B1	The Law Offices Of Mark C. Watson, P.C. representing the Runcos	January 12, 2017
B2	Bonnie Rosseau	January 9, 2017
B3	Bob Cushman	December 23, 2016
<b>Planning Commission and Speakers at Public Hearings</b>		
	Stephen Baker	January 19, 2017
	Lori Runco	January 19, 2017
	Leslie Flint	January 19, 2017
	Sam Runco	January 19, 2017
C1	Mark Watson	January 19, 2017
	Dirik Liepold	January 19, 2017
	Christina Toms	January 19, 2017
	Shivum Kapoor and Galen Guo	January 19, 2017
	Dorothy Pearl	January 19, 2017
	Commissioner Dan Dyckman	January 19, 2017
	Commissioner Paul C. Williams	January 19, 2017
	Commissioner Ollie Pattum	January 19, 2017
	Chairman Richard Wykoff	January 19, 2017

*\* Comment letter received after the close of the 45-day public comment period which ended on January 12, 2017. The City is not obligated to respond, but has nonetheless provided a response.*

The comments, responses to comments and minor text revisions to the Draft EIR contained in the RTC Document did not add any significant new information triggering recirculation of the Draft EIR. Some language has been added to the mitigation measures, but no new or more severe impacts have been identified. Chapter IV of the RTC document shows specific revisions to the text of the Draft EIR for the purpose of clarifying material in the Draft EIR.

**EIR Certification.** The City of Foster City, serving as the lead agency under CEQA, has prepared the Final EIR to provide the public and responsible and trustee agencies with information about the potential environmental effects of the proposed project. The Planning Commission is being asked to make a recommendation to the City Council regarding whether to certify that Final EIR (which includes the Draft EIR and the RTC Document) has been completed in compliance with CEQA as an adequate informational document. Section 51521(a) of the CEQA Guidelines states that an EIR is an informational document for decision-makers and the general public that analyzes the significant environmental effects of a project, identifies

possible ways to minimize significant effects, and describes reasonable alternatives to the project that could reduce or avoid its adverse environmental impacts.

Section 15151 of the State CEQA Guidelines includes the following standard for judging the adequacy of the EIR:

*“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 reasonably 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.”*

The Planning Commission’s action on the EIR is a determination on whether or not the Final EIR is an adequate informational document that has been completed in compliance with CEQA and whether to recommend that the Final EIR be certified by the City Council. The rule of adequacy generally holds that the EIR can be certified if: (1) it shows a good faith effort at full disclosure of environmental information; and (2) it provides sufficient analysis to allow decisions to be made regarding the project in contemplation of its environmental consequences. If experts do not agree on the analysis in the EIR, the document is not invalid, but the report should discuss the reason for the disagreement. All public agencies with discretionary authority over the project are required to consider the information in the Final EIR, along with any other relevant information, in making its decisions on the project. *Certification of the EIR does not compel a decision making body to approve the project applications.*

Staff recommends that the Planning Commission find that the EIR is an adequate informational document that has been completed in compliance with CEQA and further recommends that it be certified by the City Council.

## **NEXT STEPS**

After the Planning Commission makes a recommendation to the City Council, the City Council will consider taking the following actions at the public hearing on May 8, 2017:

- 1) Certification of the Final EIR (EA-15-002)
- 2) Adoption of the CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program
- 3) Approval of the project

Once the City Council has approved the project, staff will bring the project back to the Planning Commission for design review.

## **ATTACHMENTS**

Attachment 1: Resolution: Certification of Final EIR (2)

Attachment 2: Table II-1: Summary of Impacts & Mitigation Measures

Attachment 3: Planning Commission Staff Report dated January 19, 2017 (without attachments)

Attachment 4: Response to Comments Document dated March 2017

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

State CEQA Guidelines  
Foster City Environmental Review Guidelines  
City's adopted General Plan  
Chuck Anderson – Schaaf & Wheeler  
Terry Huffman – Huffman-Broadway Group  
Jean Savaree – City Attorney  
Camas Steinmetz – Aaronson, Dickerson, Cohn & Lanzone  
Matthew Francois – Rutan & Tucker  
Jeff Moneda – Public Works Director  
Kenneth Ho – Code Enforcement Officer  
Patricia Maurice – Caltrans  
Lynette Dias – Urban Planning Partners  
Bruce Abelli-Amen – BASELINE Environmental  
Vicki Beard – Tom Origer & Associates  
Dr. Mark Stacey, UC Berkeley