

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

*Mark P. Walsh*  
City Attorney

RESOLUTION No. 84126 C.M.S.

2012 NOV 20 AM 9:48

**RESOLUTION ADOPTING THE OAKLAND ENERGY AND CLIMATE ACTION PLAN AND AUTHORIZING THE CITY ADMINISTRATOR OR HIS OR HER DESIGNEE TO ADMINISTRATIVELY UPDATE THE ENERGY AND CLIMATE ACTION PLAN APPENDIX CONSISTENT WITH THE ENERGY AND CLIMATE ACTION PLAN WITHOUT RETURNING TO THE CITY COUNCIL**

**WHEREAS**, the City of Oakland is developing an Energy and Climate Action Plan (ECAP) to identify energy and climate goals, clarify policy direction, and recommend priority actions for reducing energy use and GHG emissions in a framework that supports implementation and funding discussions; and

**WHEREAS**, the City Council adopted a resolution in July 2009 directing Staff to develop the ECAP using a preliminary planning GHG reduction target equivalent to 36% below 2005 GHG emissions by 2020 and annual benchmarks for meeting the target; and

**WHEREAS**, the ECAP includes revisions based on: (1) City Council input received at a City Council Special Workshop on March 30, 2010; (2) public comment received following the release of the first draft of the ECAP in April 2010; and (3) City Council input received at a City Council meeting held on March 1, 2011; and

**WHEREAS**, several public workshops and public comment periods were held to hear public comments on the draft ECAP; and

**WHEREAS**, a duly noticed public hearing was held before the City Planning Commission on December 1, 2010, as well as a hearing before the Public Works Committee of the City Council on December 14, 2010, and a hearing before the City Council held on March 1, 2011; and

**WHEREAS**, appropriate California Environmental Quality Act (CEQA) review of the draft ECAP is necessary prior to adoption of a final ECAP; and

**WHEREAS**, on March 1, 2011, via Resolution No. 83245 C.M.S., the City Council directed City staff to perform appropriate CEQA review for the proposed draft ECAP and upon conclusion of that review return to the City Council for consideration of the CEQA review and final adoption of the ECAP; and

**WHEREAS**, the City is the Lead Agency for this Project for purposes of environmental review under the CEQA; and

**WHEREAS**, the City has previously prepared and certified a set of applicable CEQA documents including: (a) 1998 Land Use and Transportation Element EIR; (b) 1996 Open Space Conservation and Recreation Element Negative Declaration via Resolution No. 80209 C.M.S.;

(c) 2010 Housing Element EIR via Resolution No. 83134 C.M.S.; (d) 2004 Safety Element Negative Declaration via Resolution No. 78915 C.M.S.; (e) 1998 Historic Preservation Element EIR via Resolution No. 74403 C.M.S.; (f) 2005 Noise Element Negative Declaration via Resolution No. 79312 C.M.S.; (g) 2007 Bicycle Master Plan EIR via Resolution No. 80959 C.M.S.; (h) 2002 Pedestrian Master Plan Mitigated Negative Declaration via Resolution No. 77514 C.M.S.; and (i) 1999 Estuary Policy Plan EIR via Resolution No. 75037 C.M.S. Collectively these are known as the “Previous CEQA Documents.” No legal actions were filed challenging the Previous CEQA Documents and thus they are presumed valid. In addition, on November 3, 2008, the City Council adopted Standards Conditions of Approval/Uniformly Applied Development Standards, via Ordinance No. 12899 C.M.S.; and

**WHEREAS**, the City has prepared an Addendum to the foregoing Previous CEQA Documents to evaluate the potential impacts of the Energy and Climate Action Plan; and

**WHEREAS**, the Addendum demonstrates that no further/additional CEQA review is required to adopt the Energy and Climate Action Plan; specifically none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163, are present, in that: (1) there are no substantial changes to the project that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; (2) there are no substantial changes in circumstances that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; and (3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Previous CEQA Documents were adopted, which is expected to result in (a) new significant environmental effects or a substantial increase in the severity of significant environmental effects already identified in the Previous CEQA Documents; or (b) mitigation measures which were previously determined not to be feasible would in fact be feasible, or which are considerably different from those recommended in the Previous CEQA Documents, and which would substantially reduce significant effects of the project, but the City declines to adopt them; and

**WHEREAS**, the Previous CEQA Documents and the Addendum reflect the City’s independent judgment and analysis; now, therefore be it

**RESOLVED:** That the City of Oakland is committed to continuing to provide leadership to reduce greenhouse gas emissions to mitigate the future effects of climate change both locally and globally; and be it

**FURTHER RESOLVED**, that the City hereby finds and determines that it has been presented and has independently reviewed and considered the information in the Previous CEQA Documents and Addendum, and that no further environmental review is required for adoption of the Energy and Climate Action Plan, because (1) there are no substantial changes to the project or changes in circumstances that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; and (2) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Previous CEQA Documents were adopted, which is expected to result in (a) new significant environmental effects or a substantial increase in the severity of significant environmental effects already

identified in the Previous CEQA Documents; or (b) mitigation measures which were previously determined not to be feasible would in fact be feasible, or which are considerably different from those recommended in the Previous CEQA Documents, and which would substantially reduce significant effects of the project, but the City declines to adopt them. Thus, in considering adoption of the ECAP, the City can rely on the Previous CEQA Documents; and be it

**FURTHER RESOLVED**, that, as a separate and independent basis, the ECAP is also exempt from CEQA review pursuant to Public Resources Code section 21083.3 and CEQA Guidelines section 15183, as detailed in the Addendum; and be it

**FURTHER RESOLVED**, that, the Addendum satisfies the requirements for environmental review contained in State CEQA Guidelines section 15183.5 and the Bay Area Air Quality Management District's June 2010 CEQA Guidelines for a "Qualified" Greenhouse Gas Reduction Strategy, as discussed in detail in the ECAP Appendix (see CEQA Review of Future Development Projects). Therefore, future development projects may be able to tier-off/streamline CEQA review related to Greenhouse Gas emissions.

**FURTHER RESOLVED**, that the City finds and determines that this Resolution complies with CEQA and that the City Administrator or his or her designee is directed to file a Notice of Determination with the appropriate agencies; and be it

**FURTHER RESOLVED**, that the City hereby adopts the Energy and Climate Action Plan; and be it

**FURTHER RESOLVED**, that the City Administrator or his or her designee may administratively update the Energy and Climate Action Plan Appendix consistent with the Energy and Climate Action Plan without returning to the City Council; and be it

**FURTHER RESOLVED**, that the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City's decision is based are respectively: (a) the Public Works Agency, Environmental Services Division, 250 Frank H. Ogawa Plaza, Suite 5301, Oakland; (b) the Office of Planning, Building and Neighborhood Preservation, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 4 2012

**PASSED BY THE FOLLOWING VOTE:**

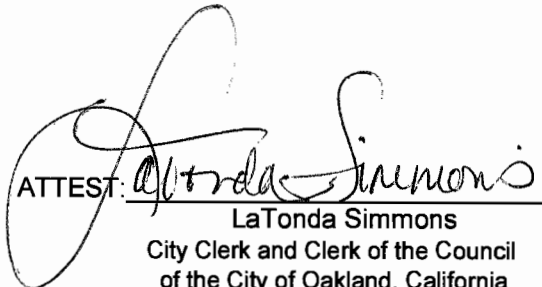
AYES - BROOKS, ~~BRUNNER~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Brunner - 1

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Date of Attestation: \_\_\_\_\_