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City Attorney

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OFFICE OF THE CITY CLERK
OAKLAND2012 MAY 30 AM 10:43 **OAKLAND CITY COUNCIL****RESOLUTION No. 83939 C.M.S.**

Introduced by Councilmember _____

**RESOLUTION AMENDING THE SAFETY ELEMENT OF THE OAKLAND
GENERAL PLAN TO INCORPORATE THE OAKLAND LOCAL HAZARD
MITIGATION PLAN AS AN IMPLEMENTATION ANNEX**

WHEREAS, the City of Oakland prepares for disasters with the understanding that disasters do not recognize city, county, or special district boundaries; and

WHEREAS, the City of Oakland seeks to maintain and enhance both a disaster-resistant city and region by reducing the potential loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters; and

WHEREAS, the Bay Area is subject to various earthquake-related hazards, such as ground shaking, liquefaction, landsliding, fault surface rupture, and tsunamis; and

WHEREAS, the Bay Area is subject to various weather-related hazards, including wildfires, floods, and landslides; and

WHEREAS, the City of Oakland is committed to increasing the disaster resistance of the infrastructure, health, housing, economy, government services, education, environment, and land use systems in the City of Oakland as well as in the Bay Area as a whole; and

WHEREAS, the federal Disaster Mitigation Act of 2000 requires all cities, counties, and special districts to have adopted a Local Hazard Mitigation Plan to receive disaster mitigation funding from the Federal Emergency Management Agency (FEMA); and

WHEREAS, the Association of Bay Area Governments (ABAG) has approved and adopted the ABAG report, *Taming Natural Disasters*, as the multi-jurisdictional Local Hazard Mitigation Plan for the San Francisco Bay Area; and

WHEREAS, Oakland's Local Hazard Mitigation Plan, augmented by ABAG's regionally developed strategies, and including Oakland-specific maps and analysis, has been incorporated as a City of Oakland Annex into ABAG's multijurisdictional Local Hazard Mitigation Plan for the San Francisco Bay Area; and

WHEREAS, the *Safety Element* of the City of Oakland's General Plan, known as "Protect Oakland," was adopted by Council Resolution No. 78915 C.M.S. on November 16, 2004, and was intended to serve as the foundation for Oakland's Local Hazard Mitigation Plans; and

WHEREAS, On March 20, 2012, the City Council adopted the ABAG report, *Taming Natural Disasters*, as the Oakland Local Hazard Mitigation Plan; and

WHEREAS, California State law requires that the City of Oakland take a further action, and adopt a General Plan Amendment to make the Oakland Local Hazard Mitigation Plan an “implementation appendix” to the *Safety Element* of the Oakland General Plan, and, that the timing of the March 20, 2102 Council hearing date did not allow the City sufficient time to meet established General Plan Amendment noticing requirements; and

WHEREAS, on May 2, 2012, the Planning Commission held a publically noticed hearing to consider an amendment to the *Safety Element* of the Oakland General Plan to include the Local Hazard Mitigation Plan, , and recommended that action for adoption by City Council; and

WHEREAS, this resolution will adopt a General Plan Amendment, per State law, which amends the *Safety Element* of the Oakland General Plan so that it will incorporate the Oakland Local Hazard Mitigation Plan as Appendix F of the *Safety Element* (incorporated by reference as Exhibit A to this resolution); and

WHEREAS, The City prepared an Initial Study (dated September 15, 2004), which evaluated the environmental impacts of the *Safety Element* of the General Plan, and the City Council adopted a Negative Declaration and approved the *Safety Element* on November 16, 2004, via Resolution No. 78915 C.M.S. (“2004 ND”). The 2004 ND relied, in part, on the 1998 *Land Use and Transportation Element* EIR and the 2006 *Open Space Conservation and Recreation Element* of the General Plan (OSCAR) Negative Declaration. In addition, the City has prepared and adopted/certified (a) the 2005 *Noise Element* Negative Declaration; and (b) the 2010 *Housing Element* EIR. Collectively these California Environmental Quality Act (CEQA) reviews 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; and

WHEREAS, the City prepared an Addendum to the foregoing CEQA documents to evaluate the potential impacts of the Oakland Local Hazard Mitigation Plan; and

WHEREAS, the Addendum demonstrates that no further/additional CEQA review is required to adopt the Oakland Local Hazard Mitigation 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 as 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, each as a separate and independent basis from the other CEQA findings, the City Council finds the project exempt from CEQA review, according to exemptions cited in the CEQA addendum (including the exemptions in CEQA Guidelines Sections 15060, 15061, 15300, 15304, 15330 and 15183); and

WHEREAS, in accordance with Government Code 65358, the City Council hereby finds and determines that it is in the public interest to amend the Safety Element of the Oakland General Plan as specified in this Resolution; now, therefore be it

RESOLVED: That the City of Oakland commits to continuing to take those actions, and initiating further actions, as appropriate, identified in the City of Oakland Local Hazard Mitigation Plan; and be it

FURTHER RESOLVED: the City of Oakland accepts the Oakland Planning Commission's approval of the CEQA Addendum prepared for the Oakland Local Hazard Mitigation Plan, finding no further environmental review is required for the adoption of the Local Hazard Mitigation 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; (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 as 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 be it

FURTHER RESOLVED: each as a separate and independent basis from the other CEQA findings, the City Council finds the project exempt from CEQA review according to exemptions cited in the CEQA addendum (including CEQA Guidelines Sections 15060, 15061, 15300, 15304, 15330 and 15183); and be it

FURTHER RESOLVED: the City of Oakland approves the General Plan Amendment (# GP 12001), which: 1) makes the City's adopted Local Hazard Mitigation Plan (attached as Exhibit A to this Resolution) an "Appendix F" of the *Safety Element* of the Oakland General Plan; and 2) adds language to the *Safety Element* as follows:

Beginning at Section 1.2 of the *Safety Element* (p. 7), after the last sentence of “Implementing the safety element,” add the following new policy statement as a new paragraph:

“1.2. The City will adopt and implement the strategies in a Local Hazard Mitigation Plan, which reduce the impacts of natural and man-made disasters, under the requirements of the Federal Disaster Mitigation Act of 2000. On March 20, 2012, the City Council adopted the Oakland Local Hazard Mitigation Plan, which serves as an “implementation appendix” to the *Safety Element* of the Oakland General Plan (and is included in the *Safety Element* as **Appendix F**). Specifically, the 360 strategies in the adopted Local Hazard Mitigation Plan are a set of actions the City is taking, or is considering taking, to reduce the risks of disasters on Oakland residents, businesses and essential government services. The Fire Department’s Office of Emergency Services will be the lead City agency responsible for evaluating the Plan on a regular basis, as necessary, to comply with federal and state laws, and for preparing future editions of the Local Hazard Mitigation Plan.”

In Section 2.4 Policy Statements, of the *Safety Element* (p. 19) , add two new Policy Statement (PS) Actions:

“Action PS-1.2.1 To comply with federal and state law, follow, update, and adopt the Oakland Local Hazard Mitigation Plan. **(OFD Office of Emergency Services, in consultation with the Department of Planning, Building and Neighborhood Preservation)**”

“Action PS-1.2.2 City staff will study the occurrence, and damage from, windstorms to the residents and businesses of Oakland. If windstorms are found to be a significant environmental hazard, then staff will include strategies to mitigate windstorms in the next update of the Oakland Local Hazard Mitigation Plan. **(OFD Office of Emergency Services)**”

and be it

FURTHER RESOLVED: this action is included and referenced as the first consolidated General Plan Amendment of 2012 to the Oakland General Plan, in accordance with state law.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 19 2012, 20

PASSED BY THE FOLLOWING VOTE:

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

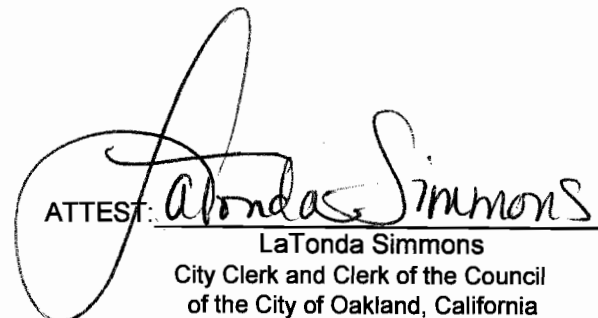
REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:


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