



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION

- (A) CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR PHASE 1 OF THE CITY OF OAKLAND 2045 GENERAL PLAN UPDATE AND MAKING RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS; AND
- (B) ADOPTING AN AMENDMENT TO THE SAFETY ELEMENT OF THE CITY OF OAKLAND GENERAL PLAN; AND
- (C) ADOPTING THE ENVIRONMENTAL JUSTICE ELEMENT AS A NEW ELEMENT OF THE CITY OF OAKLAND GENERAL PLAN; AND
- (D) ADOPTING CONFORMING AMENDMENTS TO THE LAND USE AND TRANSPORTATION ELEMENT OF THE CITY OF OAKLAND GENERAL PLAN, INCLUDING GENERAL PLAN MAP AMENDMENTS, AS PART OF IMPLEMENTATION OF THE RECENTLY ADOPTED 2023-2031 HOUSING ELEMENT

WHEREAS, California Government Code Section 65300 requires each city and county to adopt a general plan; and

WHEREAS, California Government Code Section 65302 requires general plans to be updated “periodically”, which, according to the California Office of Planning Research’s General Plan Guidelines, has traditionally been at least every 15 to 20 years, and many portions of the City of Oakland General Plan were adopted over 23 years ago; and

WHEREAS, the City of Oakland General Plan must include the following elements or topics, per California Government Code Section 65302: Housing, Safety, Environmental Justice, Land Use, Circulation, Open Space, Conservation, and Noise; and

WHEREAS, per California Government Code Section 65303, a general plan may also include other topics or elements of local interest related to a jurisdiction’s physical development, such as an Infrastructure and Facilities Element to serve as a long-term capital improvement plan; and

WHEREAS, California Government Code Section 65302(g) requires and establishes the legislative framework for California's Safety Elements and requires the Safety Element to be reviewed and, if necessary, revised upon each revision of the housing element or local hazard mitigation plan, but not less than once every eight years; and

WHEREAS, California Government Code Section 65302(g)(5) additionally requires that upon the next revision of the housing element on or after January 1, 2020, the Safety Element be updated as necessary to identify residential developments in any hazard areas that do not have at least two emergency evacuation routes; and

WHEREAS, California Government Code Section 65040.12(e) defines environmental justice as “the fair treatment and meaning full participation of people of all races, cultures, and incomes with respect to the development adoption, implementation, and enforcement of environmental laws, regulations, and policies”; and

WHEREAS, the State of California passed Senate Bill 1000 in 2016, which requires that an Environmental Justice Element, or related goals, policies, and objectives integrated into other elements, be prepared upon the adoption or revision of two or more General Plan Elements concurrently on or after January 1, 2018; and

WHEREAS, California Government Code Section 65302(h) requires and establishes the legislative framework for California's Environmental Justice Element requirements; and

WHEREAS, the City of Oakland is currently undertaking a comprehensive update in two phases to its General Plan through a community driven process, which started in 2021 and is planned to continue through 2025; and

WHEREAS, Phase 1 of the General Plan Update (GPU) includes adoption of the 2023-2031 Housing Element, updates to the Safety Element, creation of a new Environmental Justice Element, Planning Code Text and Map Amendments, and Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments; and

WHEREAS, on October 5, 2021, the City Council adopted Resolution No. 88847 C.M.S and Resolution No. 88848 C.M.S., which authorized the City Administrator to enter into a Professional Services contract with Dyett & Bhatia and the Community Consultant, Urban Strategies Council as the contracting entity for the Deeply Rooted in Oakland consulting team (Deeply Rooted), for services related to the General Plan Update, associated zoning code and map amendments, community engagement, and California Environmental Quality Act (CEQA) assessment; and

WHEREAS, On July 19, 2022, the City Council adopted Resolution No. 89345 C.M.S., recognizing the disproportionate impacts of climate change on Black, Indigenous, People of Color (BIPOC) and low-income communities in Oakland and directing the City Administrator to engage in an equitable process for integrating climate resilience and mitigation strategies and policies into the General Plan; and

WHEREAS, on January 31, 2023, the City of Oakland adopted Resolution No. 89565 C.M.S., adopting the 2023-2031 Housing Element as a General Plan Amendment to the Oakland General Plan and determining that said adoption was exempt from CEQA; and

WHEREAS, Planning staff and the team conducted a wide range of community engagement focused on the Safety Element and Environmental Justice Element, including outreach to communities that have disproportionately been impacted by historic and continued patterns of housing discrimination, through pop-ups, cultural events, townhalls, interviews, focused

discussions, neighborhood workshops and meetings, youth engagement, online engagement, presentations to community groups and Neighborhood Councils, a dedicated website for Safety and Environmental Justice Elements with access to announcements, and project reports, a dedicated General Plan Update email and an e-mail distribution system to send updates to interested parties; and

WHEREAS, Planning staff and the Deeply Rooted team convened an Equity Working Group, an informal advisory body to Deeply Rooted comprised of residents from diverse backgrounds and neighborhoods across Oakland to solicit feedback; and

WHEREAS, Planning staff convened a Technical Advisory Committee comprised of internal City department representatives as well as other Oakland-based, neighboring, and regional governmental agency representatives to solicit feedback; and

WHEREAS, Planning staff conducted study sessions, encouraged public participation, and solicited feedback as part of the Safety Element update and the new Environmental Justice Element process at various public meetings and hearings before the Planning Commission (May 18, 2022, and September 21, 2022), the Community and Economic Development Committee of the City Council (May 24, 2022, and September 27, 2022), and Public Safety Committee of the City Council (October 11, 2022, and October 22, 2022); and

WHEREAS, the City of Oakland has prepared an update to the Safety Element of the General Plan that substantively addresses all of the requirements provided under California Government Code Section 65302(g); and

WHEREAS, the City of Oakland has prepared a new Environmental Justice Element of the General Plan that substantively addresses all of the requirements provided under California Government Code Section 65302(h); and

WHEREAS, the Public Review Draft of the Safety Element and the Environmental Justice Element was made available for a 90-day public review period between March 24, 2023, and June 22, 2023; and

WHEREAS, the Public Review Draft of the Safety Element was submitted to California Geological Survey of the Department of Conservation and Board of Forestry and Fire Protection for their 45-day and 90-day review and subsequently submitted to the Board of Forestry for formal review; and

WHEREAS, Planning staff solicited feedback on the Public Review Draft Safety and Environmental Justice Elements from the Planning Commission (May 17, 2023), the Community and Economic Development Committee of the City Council (June 27, 2023), and the Public Safety Committee of the City Council (July 11, 2023); and

WHEREAS, the City received a total of twenty-four (24) comments, comment letters, and emails during the comment period, including recommendations from the Equity Working Group on the Public Review Draft Safety and Environmental Justice Element; and

WHEREAS, Planning staff considered and incorporated community feedback where appropriate; and

WHEREAS, on March 30, 2022, a Notice of Preparation of a Draft Environmental Impact

Report (EIR) was issued for Phase 1 of the GPU; and

WHEREAS, a duly noticed Draft EIR scoping hearing was held before the Planning Commission on April 20, 2022, to receive comments on the scope and content of the Draft EIR for Phase 1 GPU; and

WHEREAS, a Notice of Availability/Notice of Release of a Draft EIR was issued on March 24, 2023, along with publication of Draft EIR itself, both of which were made available to the public/governmental agencies for review and comment; and

WHEREAS, the Draft EIR was available for a 45-day public review period between March 24, 2023 and May 9, 2023; and

WHEREAS, a duly noticed public hearing on the Draft EIR was held before the Planning Commission on April 19, 2023; and

WHEREAS, on July 26, 2023, a Notice of Availability/Release of a Final EIR and Hearing Drafts of the Safety Element and Environmental Justice Element was issued and the Final EIR and Public Hearing Drafts of the Safety Element and Environmental Justice Element with appendices identifying responses to public comment were published on July 26, 2023, on the City of Oakland website GPU webpage, and an email notice was sent to all individuals and organizations that have requested project updates; and

WHEREAS, on August 2, 2023, the Planning Commission held a duly noticed public hearing to consider the updated Safety Element, the new Environmental Justice Element, General Plan Map and Text Amendments, related documents and EIR; and

WHEREAS, the Planning Commission, after conducting and closing the public hearing, unanimously recommended, with one absent commissioner, that the City Council (a) adopt the required CEQA findings, including certifying the EIR, rejection of two mitigation measures as infeasible and rejection of alternatives as infeasible, and adopting a Statement of Overriding Considerations; (b) adopt the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP); (c) adopt a resolution to certify the EIR and make related CEQA findings, adopt an amendment to the Safety Element of the City of Oakland General Plan, adopt the Environmental Justice Element as a New Element of the City of Oakland General Plan, and adopt conforming amendments to the Land Use and Transportation Element of the General Plan, including General Plan Map Amendments; and (d) adopt an ordinance adopting the proposed Phase 1 Planning Code Text and Map Amendments, with the following revisions recommended by the Planning Commission:

- a. That additional zoning standards such as lot coverage, lot frontage, and average lot width requirements be struck from the Missing Middle Code Package.
- b. To add to the General Planning Code Amendments, under Section 17.108.140C.2.a, the words “for safety and security” after “public safety hazard.”

; and

WHEREAS, the Planning Commission provided the additional recommendation passed on a 4-2 vote, with one absent commissioner, that the City Council adopt construction workforce standards as part of the General Plan Update under the guidance from staff; and

WHEREAS, on September 12, 2023, at a duly noticed public meeting, the Community and Economic Development Committee of the City Council voted to recommend the proposal to certify the EIR, adopt an amendment to the Safety Element of the City of Oakland General Plan, adopt the Environmental Justice Element as a New Element of the City of Oakland General Plan; and adopt Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments; and

WHEREAS, the City Council held a duly noticed public hearing on September 19, 2023, to review and consider adoption of the Hearing Draft Safety Element, Hearing Draft Environmental Justice Element, Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments, and EIR certification; now, therefore, be it

RESOLVED: That the recitals contained above in this resolution are true and correct, are an integral part of the City Council's decision, and are hereby incorporated as findings in support of adoption of the adoption of the Hearing Draft Safety Element, Hearing Draft Environmental Justice Element, Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments, and EIR certification; and be it

FURTHER RESOLVED, that the City Council, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the Phase 1 GPU EIR and the CEQA findings contained as Attachment B to the September 12, 2023 City Council Community and Economic Development Committee Report; and be it

FURTHER RESOLVED, that the City Council, as the final decision-making body for the lead agency, hereby confirms, adopts and incorporates by reference into this Resolution (as if fully set forth herein) all the CEQA findings contained as Attachment B to the September 12, 2023 City Council Community and Economic Development Committee Report, including rejecting mitigation measures and alternatives as infeasible and adopting a Statement of Overriding Considerations, prior to taking action in adopting of the Hearing Draft Safety Element, Hearing Draft Environmental Justice Element, Conforming Amendments to the Land Use and Transportation Element of the City of Oakland General Plan, including General Plan Map Amendments, and EIR certification; and be it

FURTHER RESOLVED, that the City Council hereby certifies that the Phase 1 GPU EIR has been prepared in accordance with CEQA and adopts and certifies said EIR; and be it

FURTHER RESOLVED, that the City Council adopts and incorporates by reference into this Resolution as if fully set forth herein, as conditions of approval of the Phase 1 GPU EIR, the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP) contained as Attachment C to the September 12, 2023 City Council Community and Economic Development Committee Report; and be it

FURTHER RESOLVED, that the City Council hereby amends the City of Oakland CEQA Thresholds of Significance Guidelines to delete thresholds of significance AES-6 (Cast shadow that substantially impair the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors), AES-7 (Cast shadow that substantially impairs the beneficial use of any public or quasi-public park, lawn, garden, or open space), AES-8 (Cast shadow on a historic resource, as defined by CEQA Guidelines section 15064.5(a), such that the shadow would materially impair the resource's historic significance by

materially altering those physical characteristics of the resource that convey its historical significance and that justify its inclusion on or eligibility for listing in the National Register of Historic Places, California Register of Historical Resources, Local Register of historical resources, or a historic resource survey form with a rating of 1-5), and AES-10 (Create winds that exceed 36 miles per hour for more than one hour during daylight hours during the year); and be it

FURTHER RESOLVED, that the City Council hereby adopts the Safety Element and Environmental Justice Element, attached hereto as *Exhibit A* and *Exhibit B*, as a General Plan Amendment; and further finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by the adoption of the Safety Element and the Environmental Justice Element; and be it

FURTHER RESOLVED, that the City hereby finds that the Safety Element and the Environmental Justice Element substantially comply with all requirements of California Government Code Section 65302(g) and Government Code Section 65302(h), and further finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the adoption of the Safety Element and Environmental Justice Element; and be it

FURTHER RESOLVED, that the City Council hereby amends the General Plan Land Use and Transportation Element Text and Maps as shown attached hereto as *Exhibit C* and *Exhibit D* as a General Plan Amendment; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors and minor clarifications) to the Safety Element and Environmental Justice prior to formal publication, without returning to the City Council or Planning Commission; and be it

FURTHER RESOLVED, that nothing in this Resolution shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law; and be it

FURTHER RESOLVED, that the provisions of this Resolution and the adopted General Plan Elements are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, Chapter or other provision is invalid, or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions of this Resolution (that can be given effect without the invalid provision or application) and the application of those provisions to other persons or circumstances are not affected by that decision. The City Council declares that the City Council would have adopted this resolution irrespective of the invalidity of any particular portion of this Resolution; and be it

FURTHER RESOLVED: That the City Council hereby directs the Environmental Review Officer or designee to cause to be filed a Notice of Determination with the appropriate agencies; and be it

FURTHER RESOLVED, that the record before this Council relating to these actions include, without limitation, the following:

1. the Safety Element, Environmental Justice Element, and Land Use Element General Plan Amendments including all accompanying maps, papers and appendices;

2. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the Environmental Impact Report and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the Safety Element, and Environmental Justice Element, and attendant hearings;
3. all oral and written evidence received by the Planning Commission and City Council during the public hearings; and all written evidence received by the relevant City Staff before and during the public hearings; and
4. all matters of common knowledge and all official enactments and acts of the City, such as: (a) the General Plan; (b) Oakland Municipal Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations

; 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) Oakland Planning and Building Department, Strategic Planning Bureau, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland, California; and be it

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California