



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: September 3, 2019

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Adopting The 2019-2024 Local Hazard Mitigation Plan And Amending The Text On Page 6-13 Of The Safety Element Of The General Plan And The Text Of Action CSN-A-10, Implementation Actions For Conservation, Safety And Noise And Adding The Local Hazard Mitigation Plan As An Appendix To The Safety Element Of The General Plan (CEQA Determination: Exempt Per State CEQA Guidelines Sections 15308 And 15061(B)(3))**

RECOMMENDATION

The Planning Commission and staff recommend that the City Council hold a public hearing and thereafter adopt the 2019-2024 Local Hazard Mitigation Plan and amend the General Plan to add the Local Hazard Mitigation Plan as an appendix to the General Plan Safety Element.

BACKGROUND

The federal Disaster Mitigation Act of 2000 (DMA 2000) requires that all communities establish a Local Hazard Mitigation Plan (LHMP) as a condition of receiving federal hazard mitigation funding through the Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation Grant Program (PDM), and the Flood Management Assistance Grant Program (FMA). The LHMP must be updated every five years. The initial Local Hazard Mitigation Plan was approved by the City Council in 2009 (Resolution No. 09-178). The City's 2019-2024 Local Hazard Mitigation Plan Update has now been completed and is ready for adoption by the City Council.

The California Disaster Assistance Act limits the state's share for any eligible mitigation project to no more than 75% of total state eligible costs; however, the state's share can increase up to 100% of total state eligible costs connected with certain events. AB 2140, approved by the Governor on September 29, 2006, prohibited the state's share for any eligible project from exceeding 75% of total state eligible costs unless the local agency is located within a city, county, or city and county that has adopted a Local Hazard Mitigation Plan in accordance with the federal Disaster Mitigation Act of 2000 as part of the Safety Element of its General Plan. If adopted as part of the Safety Element, the Legislature may provide for the state's share of local costs to exceed the 75% of total state eligible costs.

DISCUSSION

On April 17, 2019, the 2019-2024 Local Hazard Mitigation Plan Update was approved by the Federal Emergency Management Agency (FEMA) Region IX pending final adoption by the City Council.

Pursuant to Government Code section 65358, the legislative body of a local agency may amend its general plan, in whole or in part, if it finds that the amendment would be in the public interest. No more than four General Plan amendments to each element may be adopted within one calendar year. The City Council has not adopted any amendments to the Safety Element of the General Plan in 2019 to date.

The Safety Element of the General Plan contains several goals, policies, and implementation measures to reduce hazards that could result from natural and man-made disasters such as flooding, tsunamis, dam failure, fire, and hazardous materials, as well as the effects of climate change such as sea level rise. The LHMP is consistent with and would implement these goals and policies. The LHMP provides a risk assessment of critical facilities as well as specific mitigation goals and objectives to be utilized over the next five years to reduce the risks associated with the identified hazards in Emeryville.

The Planning Commission held a public hearing and passed a resolution on July 25, 2019, recommending that the City Council approve a General Plan amendment to adopt the 2019-2024 Local Hazard Mitigation Plan as an appendix to the General Plan Safety Element¹. The Planning Commission also found that the LHMP is exempt from the requirements of the California Environmental Quality Act per State CEQA Guidelines Sections 15308 and 15061(b)(3) (see below).

The General Plan Amendment would modify the text on page 6-13 of the Safety Element in Chapter 6, (Conservation, Safety and Noise) of the Emeryville General Plan as follows (deletions are indicated by ~~striketrough-type~~ and additions are indicated by double-underlining):

~~"In 2009, the City is expected to complete a Local Hazard Mitigation Plan to mitigate natural hazards and enhance resistance. The Local Hazard Mitigation Plan (LHMP) identifies mitigation actions that the City is taking or considering taking, subject to funding availability and/or other agencies approvals, to reduce the risk of a disaster, whether natural or man-made, on Emeryville residents, businesses and essential government services. On September 1, 2009, the City Council adopted the City's initial LHMP. The 2019-2024 LHMP Update, adopted by the City Council on September 3, 2019, serves as an "Implementation Appendix" to the Conservation, Safety and Noise Element and is included in the Emeryville General Plan as an appendix. Although earthquakes are the primary threat addressed by the LHMP, the plan also addresses hazardous materials releases, climate change, fire, floods, civil unrest, utility/infrastructure failure, terrorism, and biological threats."~~

¹ Government Code section 65353(a), Emeryville Municipal Code section 9-7.1201 et. seq.

Action CSN-A-10 in Table 8-5, Implementation Actions for Conservation, Safety and Noise would be amended as follows:

“Periodically update the Local Hazard Mitigation Plan (LHMP). Continue participation in regional disaster planning initiatives and maintain and update the City’s Local Hazard Mitigation Plan every five years to maintain a current and accurate plan consistent with FEMA Guidelines. The updated LHMP shall be reviewed by the Planning Commission and adopted by City Council but shall not require a subsequent amendment to the General Plan when required updates occur.”

Pursuant to Emeryville Municipal Code section 9-7.1205, the Planning Commission in recommending, and the City Council in approving, an amendment to the General Plan, must make all of the following findings:

- a) the proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public;
- b) the proposed amendment is consistent with the General Plan Guiding Principles, unless the Guiding Principles themselves are proposed to be amended;
- c) the proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless concurrent amendment to those plans is also proposed and will result in consistency;
- d) the proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act; and
- e) the proposed amendment complies with state law for the preparation, adoption and amendment of general plans at California Government Code Section 65350 et seq.

Staff believes the findings can be made, as recommended in the attached resolution. The Planning Commission, in adopting its resolution recommending the General Plan amendment, did make the required findings.

ENVIRONMENTAL REVIEW

The proposed General Plan amendment is exempt from environmental review under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15308, which applies to actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment and the “general rule” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. The Local Hazard Mitigation Plan identifies, analyzes and addresses natural hazards in Emeryville and identifies strategies to mitigate, prepare for, and respond to these hazards over a five-year period. Some of the mitigation actions are studies or collaboration with other agencies, where Emeryville would not be the Lead Agency as defined by CEQA. Other mitigation actions that may be undertaken would require their own CEQA review as part of their implementation, once a full project scope is prepared and funding is sought.

FISCAL IMPACT

Adoption of the Local Hazard Mitigation Plan and amending the General Plan to add the LHMP as an appendix to the Safety Element will have no direct fiscal impact on the City.

STAFF COMMUNICATION WITH THE PUBLIC

The Planning Commission unanimously recommended that the City Council approve the proposed General Plan Amendment at their July 25, 2019 meeting.

CONCLUSION

The Planning Commission and staff recommend that the City Council hold a public hearing and thereafter approve the attached resolution finding that this General Plan Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Sections 15308 and 15061(b)(3); adopting the 2019-2024 Local Hazard Mitigation Plan as an appendix to the General Plan Safety Element, as shown in Exhibit "A"; and amending the text of the General Plan accordingly.

PREPARED BY: Lori Elefant, Management Analyst, Human Resources Department

APPROVED AND FORWARDED TO THE CITY OF EMERYVILLE CITY COUNCIL:



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
- Exhibit A: 2019-2024 Local Hazard Mitigation Plan