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Keeping an Eye on San Francisco's Plans to Decarbonize Existing Commercial Buildings

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In the coming weeks, the City of San Francisco's Department of Environment is expected to submit a new Climate Action Plan for Mayor London Breed's approval. The Climate Action Plan will provide a roadmap for the City of San Francisco (the "City") to pursue ambitious new climate action goals that were added to the City's Environment Code in late July 2021 (the "Climate Goals"). The strategies and recommendations identified in the Climate Action Plan will shape the approach the City takes in engaging stakeholders and pursuing further legislative action to help achieve the City's Climate Goals.

Owners, developers, and property managers of large commercial buildings will want to pay particular attention to the Climate Action Plan's strategies and recommendations associated with building operations. The most common fuel source for space and water heating in commercial buildings in the City is currently natural gas. The City estimates that building operations contribute approximately 41% of the City's greenhouse gas emissions. Consequently, the Climate Goals have identified the elimination of onsite fossil fuel emissions from building operations as a key element in achieving its Climate Goals.

The City's Climate Goals take a two prong approach to building operations by treating new buildings and existing large commercial buildings differently. With respect to new buildings (commercial or residential), the Climate Goals seek to require "zero onsite fossil fuel emissions" from

new buildings by 2021. The City's "All Electric in New Construction" ordinance, passed in November 2020, already has the City on course to address that goal as it requires most new developments submitting initial building permits after June 1, 2021, to be all-electric for space conditioning, water heating, cooking, and clothes drying systems and further prohibits the installation of infrastructure, piping systems, or piping for distribution of natural gas or propane to such uses (with limited exceptions).

With respect to existing large commercial buildings, the Climate Goals set a building operations sustainability goal of requiring all existing large commercial buildings to have "zero onsite fossil fuel emissions" by 2035. In other words, over time, the City seeks to replace the use of natural gas in existing large commercial buildings with electrification.

The City's Perspective

On November 3, 2021, representatives from several of the City's agencies appeared at BOMA San Francisco's annual Codes Webinar to specifically address the City's Climate Goals and the forthcoming Climate Action Plan. During their discussion of building operations (decarbonization of existing large commercial buildings), the City's representatives expressed optimism that the engineering talent of the City was up to the task of helping find ways to achieve the Climate Goals. The City also identified several options they are considering recommending in the Climate Action

Plan such as developing pilot projects, requiring regular reporting on progress toward transitioning to efficient all-electric equipment, and allowing building owners to make payments that benefit low income affordable housing in lieu of full electrification. The City indicated that there would be plenty of opportunities for ongoing stakeholder engagement on the issue of decarbonization.

The Challenges and Stakeholder Engagement

Despite the City's optimism that its workforce is up to the task, transitioning existing large commercial buildings to all-electric equipment will be expensive and will present enormous technical challenges. It raises many issues that stakeholders should be prepared to engage the City on once the Climate Action Plan is issued. Electrification raises issues such as:

- Can all-electric equipment actually fit into the footprint of a building built with natural gas infrastructure? For example, an electric boiler powerful enough to provide hot water up to the 60th floor of an office building is substantially larger than a gas boiler that does the same thing.
- In the shift from natural gas as a heating fuel source to electricity, what upgrades are needed to the local grid? Can the building's electrical systems actually draw enough power for electrification? How will electrification impact peak demand?
- Who should be responsible for absorbing the costs of stranded investments in gas infrastructure? What sort of write-offs should building owners be expected to take if they have to replace equipment before the end of its useful life?
- For some of the largest buildings, is it technically feasible to switch to all-electric? For example, while an electric heat pump might be a sufficient solution for a small building, it might not make any sense at all for a large building?

- How will this effect a building's operating expenses? For example, some professionals estimate a 300-400% increase in operating expenses related to the building's thermal load with electrification and, where used, the cost of providing steam loop heating could increase up to 500-600%.
- Is there likely to be a difference between what will required by the State in its Title 24 revisions and what would be compliant with any ordinances passed by the City in response to the Climate Action Plan? This may actually provide a dis-incentive to take early action.
- What sort of incentives can be provided?

Practical Steps to Take Now

As should be clear, there are significant challenges and risks for owners, developers, and property managers of large commercial buildings in San Francisco's push toward decarbonization of existing buildings. The question then is, what steps should they be taking now. We believe there are a few things owners, developers, and property managers should consider doing in anticipation of the release of the City's Climate Action Plan:

- **Prepare to become an engaged stakeholder.** Once the Climate Action Plan is issued, the City's next step will be to figure out what steps are necessary to implement its recommendations for achieving the Climate Goals. The City has indicated that they are going to provide ample opportunities for stakeholder engagement. Commercial property owners and managers should work with their local industry associations or government affairs representatives and become an engaged participant in the discussions on the implementation of the Climate Goals.
- **Review Your Leases.** It would be prudent to review your leases to make sure that any caps on operating expenses do not apply to operating expenses incurred for the purpose of complying with applicable laws or energy/efficiency standards, and that the

allocation of cost for utilities includes compliance with laws relating to decarbonization

- **Start Planning Capital Expenditures.** Review the status and age of your building's current natural gas infrastructure and equipment. Have a discussion with your team about whether it makes sense to replace natural gas equipment near the end of its useful life now so that you can get nearly the full benefit of the replacement before being forced to transition. On the other hand, you may also want to identify opportunities to replace

natural equipment with electric equipment that make sense from a financial perspective to get ahead of the requirements.

- **Keep an Eye Out for Our Next Client Alert.** Once the Climate Action Plan is released, we will provide further update on strategies and recommendations for building operations.

Buchalter has experienced attorneys who regularly assist building and project owners with regulatory compliance. If you have questions or need assistance, please contact one of the attorneys listed below.



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