FILED
OFFICE OF THE CITY CLERK
OAKLAND

2019 MAY 29 PM 3:50

INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE FUTURE REQUIRED PROGRAMMATIC AGREEMENTS FOR AFFORDABLE HOUSING PROJECTS WITH THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER IF AN ENVIRONMENTAL ASSESSMENT OR ENVIRONMENTAL IMPACT STATEMENT WILL BE PREPARED

WHEREAS, the provision of affordable housing is an important goal of the City's Housing Action Plan; and

WHEREAS, projects that request the use of Department of Housing and Urban Development and/or other federal funding will require completion of environmental analysis including Environmental Assessments pursuant to the National Environmental Protection Act (NEPA); and

WHEREAS, the City, designated to fulfill the requirements of Section 106 of National Historic Preservation Act (NHPA), submits a historic and archeological resource analysis to the California State Historic Preservation Officer (SHPO) for such projects; and

WHEREAS, SHPO has determined that a Programmatic Agreement is the appropriate method to ensure that three previous projects will not have an adverse historic or archeological impact pursuant to Section 106 of the NHPA and is likely to continue requiring Programmatic Agreements for future affordable housing projects; and

WHEREAS, Programmatic Agreements are legally binding documents that require oversight to ensure compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines; and

WHEREAS, the City Administrator has delegated the responsibility of the oversight of Programmatic Agreements to the Bureau of Planning; and

WHEREAS, the process to have a Programmatic Agreement approved by SHPO and the Oakland City Council adds months to the project schedule; and

WHEREAS, any delay in the overall process potentially jeopardizes the availability of funding especially since these projects often rely on funding from multiple sources; and

WHEREAS, allowing the City Administrator, or designee, to negotiate these contracts directly with SHPO would result in a quicker NEPA review process and possibly faster construction of much needed affordable units; and

WHEREAS, allowing the City Administrator, or designee, to negotiate and execute Programmatic Agreements with SHPO in the future without prior City Council approval will expedite the construction and rehabilitation of affordable housing projects in the City; and

WHEREAS, the notice and public comment process for projects requiring an Environmental Assessment or Environmental Impact Statement under NEPA will provide appropriate and adequate opportunity for public involvement consistent with the NHPA;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines that the foregoing recitals are true and correct and an integral part of the City Council's decision, and hereby adopts such recitals as findings.

SECTION 2. The City Council authorizes the City Administrator, or designee, to negotiate and execute future Programmatic Agreements pursuant to Section 106 of the NHPA for affordable housing projects that require an Environmental Assessment or an Environmental Impact Statement under NEPA, with the SHPO and other signatories/concurring parties as may be reasonably necessary, including but not limited to the Advisory Council on Historic Preservation, the affordable housing project applicant(s), and/or the City of Oakland Housing Authority, without prior Council approval.

SECTION 3. The City Council finds and determines that the adoption of this Ordinance is not an activity subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060 and 15378; however, the actions authorized by this Ordinance will be subject to environmental review in accordance with CEQA and NEPA at the earliest feasible time prior to approval of each Programmatic Agreement.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof

irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE FUTURE REQUIRED PROGRAMMATIC AGREEMENTS WITH THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER FOR AFFORDABLE HOUSING PROJECTS IF AN ENVIRONMENTAL ASSESSMENT OR ENVIRONMENTAL IMPACT STATEMENT WILL BE PREPARED

This Ordinance would authorize the City Administrator or designee to negotiate and execute all future Programmatic Agreements with the California State Historic Preservation Officer for certain affordable housing projects subject to the National Environmental Policy Act (NEPA). Programmatic Agreements are required by the California State Historic Preservation Officer project is requesting the use of federal funding and has the potential to cause an adverse impact to a historic or archeological resource pursuant to Section 106 of the of the National Historic Preservation Act. This Ordinance only applies to Programmatic Agreements for which an Environmental Assessment or Environmental Impact Statement is being prepared pursuant to NEPA.