

2018 JAN 12 PM 3: 17

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE BELOW MARKET RENT LEASES FOR THE BETTI ONO AND PRO ARTS GALLERIES LOCATED AT 150 FRANK H. OGAWA PLAZA FOR THE TERM OF FIVE YEARS IN EXCHANGE FOR IN-KIND SERVICES AND CULTURAL BENEFITS AS AUTHORIZED BY O.M.C. SECTION 2.42.110

WHEREAS, Betti Ono Gallery and Pro Arts Gallery are two arts and culture organizations that have occupied spaces on the ground floor of the City-owned building located at 150 Frank H. Ogawa Plaza pursuant to below market rate leases that have expired; and

WHEREAS, Section 2.42.110 of the Oakland Municipal Code (“O.M.C.”) (a) authorizes the City to enter into a lease of real property for consideration less than the property’s fair market value if the City Council makes a finding and determination that the lease of the property for less than its fair market value is in the best interests of the City and (b) provides that the City Council may consider the value of in-kind services to the City or the community at large, including social and cultural benefits to the community, in making the required finding and determination; and

WHEREAS, City staff have negotiated with the lessees terms for new leases that would include a below market rate (“BMR”) rent in exchange for the social and cultural benefits the organizations will provide to Oakland, including defined in-kind services, as further described in the agenda report accompanying this Ordinance (the “Agenda Report”); and

WHEREAS, such proposed terms for the leases are described in the Summary of Lease Terms attached hereto as Exhibit A (the “Summary of Lease Terms”), incorporated herein by this reference; and

WHEREAS, Rent collected from both tenants will be placed in the following General Ledger Account: General Purpose Fund (1010), Real Estate (85231), Other Rental: Miscellaneous (44419), Project (1000019), Real Estate (PS32); and

WHEREAS, Common Area Maintenance revenue from both tenants will be placed in the following General Ledger Account: City Facilities Fund (4400), Facilities Services: Civic Center Complex (30632), Facility Rental: Facility Rentals to Profit-Making Groups (44319), Project (1000010), Facilities Management & Development (IN02); now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. Pursuant to O.M.C. Section 2.42.110, and based on information and analysis

contained in the Agenda Report, the City Council finds and determines that it is in the City's best interest to enter into BMR leases with Betty Ono Gallery and Pro Arts Gallery in exchange for the provision of in-kind community benefits, art and culture services.

Section 3. The City Administrator is hereby authorized to enter into BMR leases with Betty Ono Gallery and Pro Arts Gallery consistent with the terms set forth in the Summary of Lease Terms and the Agenda Report.

Section 4. The City Attorney's Office shall review and approve the leases as to form and legality and a copy of each shall be placed on file with the City Clerk.

Section 5. Rent collected from both tenants will be placed in following General Ledger Account: General Purpose Fund (1010), Real Estate (85231), Other Rental: Miscellaneous (44419), Project (1000019), Real Estate (PS32).

Section 6. Common Area Maintenance revenue from both tenants will be placed in the following General Ledger Account: City Facilities Fund (4400), Facilities Services: Civic Center Complex (30632), Facility Rental: Facility Rentals to Profit-Making Groups (44319), Project (1000010), Facilities Management & Development (IN02).

Section 7. The City Council hereby finds and determines that on a separate and independent basis each of the following exemptions from the requirements of the California Environmental Quality Act (CEQA) Guidelines apply to the action of entering the Lease: (i) Section 15301 which exempts existing facilities that involve negligible or no expansion of use beyond that existing at the time of the City's determination; (ii) Section 15183 which exempts projects consistent with the City's General Plan; and (iii) Section 15061(b)(3) which exempts projects where it can be seen with certainty that there is not a possibility that the activity in question may have a significant effect on the environment.

Section 8. The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

BROOKS, GALLO, CAMPBELL-WASHINGTON, GIBSON-McELHANEY, GUILLEN,
KALB, KAPLAN, PRESIDENT REID

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland,
California

EXHIBIT A

Summary of Lease Terms

	<u>Deal Points</u>	<u>Betti Ono Gallery</u>	<u>Pro Arts Gallery</u>
1	Lease Term	5-years	5-years
2	Square Feet	2,636	2,213
3	Non-Profit Status	Incorporation as a non-profit required	Currently incorporated as a non-profit
4	Monthly Fair Market Rent	\$5,140.20 or \$1.95 per sq. ft. – Located on Broadway. Visible to very high foot and auto traffic.	\$3,585.06 or \$1.62 per sq. ft. – Located in the Plaza. Very low foot traffic. No visibility from Auto traffic.
5	Monthly Below Market Rent Proposal	\$3,031.40 or \$1.15 per sq. ft. Rent will increase by 2% annually.	Months 1-12: \$885.20 Months 13-24: \$1,327.80 Months 25-36: \$1,770.40 Months 37-48: \$2,434.30 Months 49-60: \$2,876.90 Rent will increase by 2% annually
6	Monthly Common Area Maintenance	\$263.60 or \$0.10 per sq. ft.	\$221.30 or \$0.10 per sq. ft.
7	Subsidized Rent or Value Given for In-Kind services provided	\$1,845 monthly	\$1,504 monthly five-year average