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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, Economic &
Workforce Development

SUBJECT: Supplemental Report - Displacement
of Oakland Nonprofit Organizations
Due to Increase in Commercial Rents

DATE: June 5, 2017

City Administrator Approval

Date:

6/8/17

RECOMMENDATION

Staff Recommends That The Committee Receive A Report From The City Administrator And Possible Action On The Impact Of The High Costs Of The Current Commercial Rental Market On Nonprofit And Community Based Organizations; An Analysis Of The Displacement Of Nonprofits From The City Of Oakland Between 2012 To The Present (Analysis To Include The Impact On The Delivery Of Services); And Recommendations On How To Retain A Vibrant Non-Profit Community In Oakland Through City Support To Ameliorate The Impact Of Rising Rental Costs.

REASON FOR SUPPLEMENTAL

An informational report regarding the status of the nonprofit sector was provided to the CED Committee on April 11, 2017. The report detailed best practices for cities in supporting local nonprofit organizations, the strategies, programs and practices underway in the City of Oakland, and recommendations for continuing and deepening those efforts.

The Committee passed a motion to hold the report for further consideration. Among the items the Committee suggested for future discussion were: (1) examining how quickly and timely the City processes payments to nonprofits, whether the City is contributing to financial instability to their operations when they are owed money by the City, and whether such processes could be improved; (2) exploring through the Education Partnership Committee if there is underutilized school district space that could be used for nonprofit hubs; and (3) considering how the City can incentivize developers to provide long term leases with nonprofits. It was also suggested that a review of prompt payment processes for nonprofits be concurrently considered by the Finance and Management Committee.

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ADDITIONAL INFORMATION ON PROMPT PAYMENT PROCESSES

The City Council enacted the Prompt Payment Ordinance on January 15, 2008. The Ordinance requires that the City pay "local prime contractors" under City "purchase contracts" within 20 business days after the City receives an undisputed invoice. The Ordinance requires that the City pay an interest penalty of 10% of the payment amount per year for every month the payment is late. The Ordinance defines "purchase contract" as any City agreement "executed expressly for the purchase, lease or rental of goods and/or services, including purchase orders, sub-purchase orders, delegated purchase orders, service agreements or subcontracts." (OMC Section 2.06.010.)

On November 18, 2014, Council adopted an Ordinance that amended the Prompt Payment Ordinance (the "Prompt Payment Amendment") to extend the scope of the prompt payment policy to cover grant agreements as well as purchase contracts. See Attachment A. The Prompt Payment Amendment defines "grant agreement" as any City agreement "to provide grant funding to any nonprofit or for profit entity or individual to support the grant recipient's provision of service to members of the public or the community at large." (OMC Section 2.06.010.) The Prompt Payment Amendment provides that it applies only to grant agreements, or amendments, extensions or modifications to grant agreements that the City entered into after the effective date of the Amendment, i.e., November 18, 2014.

The City's Finance Department is responsible for calculating prompt payment penalties for any late payments. The interest penalties are automatically calculated at the time the final payment is made based on a formula written into the accounts payable system. The frequency or degree of late payment penalties provided to nonprofit organizations is not readily available as of the date of this report. If Council requests, further research will be necessary to collect this data. Such a request must also be considered in light of other Council initiated priorities currently underway such as the FY 2017-19 budget, the banking services RFP, the amendments to the linked banking ordinance and further Oracle system updates. If Council considers this information to be germane to further discussions, staff will return with a work scope and time frame.

INFORMATION ON INCENTIVES TO PROVIDE LONG TERM LEASES TO NONPROFITS

The City currently supports the nonprofit community in several ways: Staff provides site search assistance and makes referrals for technical assistance in real estate to nonprofits needing to relocate on the private market, and the City currently provides more than a dozen nonprofits with free use of City space in order to provide services to Oakland residents. The City continues to seek opportunities within new development to support space for arts and other nonprofit organizations, and the City has been working with philanthropic organizations to create permanently affordable spaces.

A survey of best practices and case studies from other cities demonstrates a number of strategies that cities can use to mitigate the displacement of non-profits. In addition to the above practices, cities can offer direct financial assistance from the general fund in the form of anti-

displacement grant or loan programs. Research suggests, however, that offering a suite of solutions on a case-by-case basis is better than creating a uniform program, as each nonprofit may have different assets and circumstances. Particular locations may or may not be essential with regard to the services provided, which is an important aspect of the discussion as rents vary widely across Oakland. Establishing criteria for evaluation of location and other factors can be used to gauge effectiveness in the type and amount of assistance to be provided.

Current City Assistance and Solutions Available for Nonprofits

Over the past year, Business Development staff has provided location assistance for several nonprofits that lost their existing space on the private market. In addition to creating site portfolios of available spaces, staff has also recommended shared space solutions, and referred nonprofits to the Northern California Community Loan Fund for real estate technical assistance. Staff co-host a monthly free legal clinic at our Business Assistance Center, and offer workshops on real estate issues with the Alameda County Small Business Development Corporation and Eastbay SCORE.

City Space

For many years, the City has used City-owned buildings to house nonprofits. Over a dozen nonprofits currently operate in City-owned spaces with no-rent agreements. These nonprofits are primarily service providers, especially for youth services. An additional six nonprofit organizations pay market rate rents for City-owned spaces. The City currently leases out a total of 19,256 square feet downtown at 150 and 250 Frank H. Ogawa Plaza.

Conversely, the City also leases space from the private market to provide City-funded services, such as Head Start preschool programs, and expects the rents for some of these spaces to increase.

Potential Additional Strategies

The City/County of San Francisco has lost a substantial number of nonprofits due to rent increases in recent years. In October 2013, San Francisco released a report on the impact of rising rents on nonprofits and, in May 2014, a working group released a set of recommendations to better help nonprofits facing displacement. In November 2014, San Francisco created a two-year, \$5.75 Million fund to help nonprofits acquire permanent space and to incentivize philanthropic investment in space stabilization, as well as grants for one-time costs to help nonprofits navigate space transitions and activate underutilized space. This public fund represents just 0.06 percent of the \$9.6 Billion City/County of San Francisco budget, but a similar fund would require a much more significant share of Oakland's General Purpose Funds.

Private-public partnerships have yielded successful solutions aimed at addressing artist displacement in Oakland. At the beginning of this year, the Kenneth Rainin Foundation and the William and Flora Hewlett Foundation gave a \$1.7 million philanthropic grant to create affordable spaces for the city's arts organizations, including purchasing real estate and leasing it at below market rates to Oakland artists. The funds will create a two-year pilot program run by the Community Arts Stabilization Trust (CAST) and the Northern California Community Loan

Fund (NCCLF) to help artists keep their existing venues, or move into permanent, affordable space. Also, the Oakland Community Land Trust is currently exploring purchasing a mixed-use building with several nonprofit tenants. A community land trust is itself a nonprofit organization that acquires and stewards land in trust for the permanent benefit of low-income communities. Lastly, the City Council has requested that the adaptive reuse of the Henry J. Kaiser Convention Center include consideration of dedicated space for arts and other non-profit offices.

A Course to Move Forward

If the City Council wishes to pursue next steps, staff recommends:

- 1) Requesting the Finance and Management Committee complete a review of the City's record under the Prompt Payment Ordinance.
- 2) Undertaking a broader and more formal engagement of the local nonprofit sector through a variety of methods. Individualized assistance has been found elsewhere to be more effective than a general program aimed at nonprofits, and equity considerations within the nonprofit sector suggest that public assistance should be targeted.
- 3) Seeking more public-private partnership approaches to create more affordable space for nonprofits. A public-private partnership may include working with private companies and foundations to secure a building for long-term use at affordable rates, potentially for multiple organizations. Recently, a consortium of community non-profit groups initiated a funding campaign in order to acquire the building they were renting in the Fruitvale. The campaign netted over \$75,000.


In the interim, the City is encouraging nonprofits to secure long term leases, sponsoring real estate workshops, and referring organizations on a case-by-case basis to external providers for technical assistance in securing long term leases or purchasing real estate.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The Committee Receive A Report From The City Administrator And Possible Action On The Impact Of The High Costs Of The Current Commercial Rental Market On Nonprofit And Community Based Organizations; An Analysis Of The Displacement Of Nonprofits From The City Of Oakland Between 2012 To The Present (Analysis To Include The Impact On The Delivery Of Services); And Recommendations On How To Retain A Vibrant Non-Profit Community In Oakland Through City Support To Ameliorate The Impact Of Rising Rental Costs.

For questions regarding this report, please contact Marisa Raya at 510-238-6230.

Respectfully submitted,



Mark Sawicki
Director, EWD

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