

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JILL SCOTT, REAL ESTATE MANAGER
SUBJECT: ADOPTION OF A RESOLUTION APPROVING FORGIVENESS
OF DEFERRED RENT AMOUNTS FOR CITY TENANTS
IMPACTED BY COVID-19 ORDERS

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Water and Finance Departments and Real Estate Services that the Council, by resolution: 1) approve the forgiveness of the various outstanding back rent amounts previously deferred during the COVID-19 Pandemic; and 2) authorize the City Manager or the City Manager's designee to execute any amendments, as necessary, to implement the back rent forgiveness in an amount not to exceed \$22,324 for the Water Enterprise Fund and \$29,916.48 for the Parking Enterprise Fund.

EXECUTIVE SUMMARY

The City leases portions of buildings and property that it owns to commercial and other businesses located primarily in the downtown area but also on other City owned sites, including a daycare facility in west Santa Rosa. Many of the City's retail tenants and the daycare were unable to pay the full amount of rent owed during 2020 because of COVID-19 orders from the State, County of Sonoma and City of Santa Rosa, which reduced business capacity limits, imposed social distancing requirements and in some cases outright closed non-essential indoor operations for large periods of time. At that time, the City Manager, under the City's emergency ordinance, approved deferred rental payments for those tenants meeting established criteria and that were unable to pay the full amount of their rent. Staff now seeks Council approval to forgive those back rent amounts as previously identified to Council, in the interest of alleviating further burden to downtown retail businesses and the daycare, all of which provide necessary services to the City and its residents.

BACKGROUND

On March 4, 2020, California Governor Newsom proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19 and in response to that threat issued Executive Order N-33-20 (the "Order") on March 19, 2020. As a result of the Order

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and successive local mandates from the County of Sonoma and City of Santa Rosa, many businesses were directly impacted by reduced business capacity limits, social distancing requirements, and the closure of non-essential indoor operations for large periods of time.

During the COVID-19 Pandemic, the City Manager authorized deferral of lease payments for qualifying entities leasing from the City, using his authority under the City's emergency ordinance.

The following were criteria for the deferral (telecommunication leases did not qualify):

- Business required to close due to Order;
- Business only able to operate at ½ or less capacity due to Order;
- Business unable to sell product due to Order;
- Specific hardship request evaluated and confirmed by Real Estate Services.

For the Child Family Community, Inc. daycare lease of 1225 Fulton Road property, rent was deferred from April 1, 2020 through July 31, 2020 (\$5,581/month) for a total of \$22,324.00. This was during the time of mandatory closure or very reduced capacity. The daycare operator resumed monthly rental payments in August 2020.

For each of the following restaurant operators, annual license fees were deferred from July 1, 2020 through June 30, 2021 in the amount of \$1,395.32 with the exception of Syrah Restaurants, dba Jackson's Bar and Oven – Lot 14 dumpster license – which was deferred in the amount of \$1,384.56 from September 1, 2020 through August 31, 2021:

- Chandi and Judge Brothers, Inc. dba Beer Baron- Garage 5 dumpster license
- Blue Chalk Enterprises, Inc. dba VerTice (Perch and Plow) – Garage 5 dumpster license
- Soltani's Inc. dba Mac's- Garage 5 dumpster license
- Johnny Garlic's, Inc. dbaTex Wasabi's' (*now Sushi Rosa)- Lot 11 dumpster license
- Gerard's LLC dba Gerard's Paella y Tapas (*now Falafel Hut)- Lot 10 dumpster license
- The Parish Café (*now Mi Pueblo)- Lot 10 dumpster license

Each of the above businesses or, in the case of Tex Wasabi's and Gerard's, its successor, resumed payment of the license fees at the conclusion of the applicable deferral period in 2021. The Finance Department is in the process of securing a dumpster license agreement for Mi Pueblo, which is now operating in the former Parish Café space.

For the Hotel E Valet parking agreement, monthly rental payments of \$2,520 were deferred from August 1, 2020 through March 31, 2021 for a total amount of \$20,160, with the licensee resuming payment of fees in April 2021.

Even as COVID-19 restrictions have begun to lift over the course of the past year, many business are still feeling the effects of the Order.

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PRIOR CITY COUNCIL REVIEW

On June 29, 2021 in closed session, Council gave direction to staff regarding the forgiveness of deferred rental amounts.

ANALYSIS

Many City tenants have suffered significant revenue losses as a result of the Order and successive local mandates, accumulating large past due rent balances. Requiring the payment of the past due rental amounts owed will result in many tenants facing additional financial hardship. Waiving rental payments that were deferred during the period that COVID-19 measures prevented the full occupancy of rental properties while providing incidental benefit to the individual businesses, satisfies a larger public purpose. Downtown has already been hard hit by the impacts of the COVID-19 Pandemic. In an effort to promote the ongoing operation of small business in the City, to ensure a thriving downtown, and to ensure that childcare options remain available to City residents it is recommended that the outstanding rental amounts be forgiven. Allowing for back rent forgiveness will avoid vacant storefronts, loss of sales taxes and loss of businesses that serve City residents, employees and visitors in the downtown area and the larger community. The earlier deferral and now waiver of payments may enable the tenants to stay and continue to serve out the terms of their agreements, thus avoiding the costs of terminating the leases and seeking new tenants where applicable

The amounts to be forgiven includes the following outstanding back rent amounts previously deferred during the COVID-19 Pandemic:

Water Enterprise Fund:

- Child Family Community, Inc. -(daycare) – 1225 Fulton Road property lease -**\$22,324.00**

Parking Enterprise Fund:

- Hugh Futrell Corporation (Hotel E) -valet parking – Garage 12 lease - **\$20,160.00**
- Chandi and Judge Brothers, Inc. dba Beer Baron- Garage 5 dumpster license- **\$1,395.32**
- Blue Chalk Enterprises, Inc. dba VerTice (Perch and Plow) – Garage 5 dumpster license - **\$1,395.32**
- Soltani's Inc. dba Mac's- Garage 5 dumpster license - **\$1,395.32**
- Syrah Restaurants, dba Jackson's Bar and Oven – Lot 14 dumpster license - **\$1,384.56**
- Johnny Garlic's, Inc. dbaTex Wasabi's' (now Sushi Rosa)- Lot 11 dumpster license- **\$1,395.32**
- Gerard's LLC dba Gerard's Paella y Tapas (now Falafel Hut)- Lot 10 dumpster license - **\$1,395.32**
- The Parish Café (now Mi Pueblo)- Lot 10 dumpster license - **\$1,395.32**

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FISCAL IMPACT

Approval of this action will not require expenditure of funds but will result in a shortfall of \$22,324.00 to the Water Enterprise Fund and \$29,916.48 to the Parking Enterprise Fund as a result of the waiver of the outstanding rent payments. This is a one-time action.

ENVIRONMENTAL IMPACT

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment and no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution

CONTACT

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