



# City of Palo Alto

(ID # 12078)

## Policy and Services Committee Staff Report

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**Report Type: Action Items**

**Meeting Date: 4/13/2021**

**Summary Title: Rent Forgiveness Program**

**Title: City Council Referral to Policy & Services: Consideration of Rent Forgiveness for City Tenants in an Amount not to Exceed the City Council COVID-19 Reserve**

**From: City Manager**

**Lead Department: Administrative Services**

### **Recommendation**

Staff recommends that the Policy & Services Committee recommend for Council consideration the creation of a rent forgiveness program for City tenants who were not forgiven three months of rent by City Council on March 1, 2021, for up to three months and not to exceed \$50,000 per tenant.

### **Background**

At the March 1, 2021 City Council meeting, staff presented and discussed with City Council options for a potential rent forgiveness program for City tenants including non-profit and for-profit ([CMR 11872](#)). City Council approved to forgive three months of rent for active non-profit tenants. Council also approved the eight program qualifications and funding to come from the City Council COVID-19 Contingency Fund. The Council approved option had an estimated cost of up to \$203,000 (Option C from CMR 11872). City Council also directed the Policy and Services Committee to review a rent forgiveness program for other qualified City tenants (for-profit tenants) with program costs not-to-exceed the \$744,000 available in the COVID-19 Contingency Fund including the \$203,000 already approved from the March 1, 2021 Council action.

California Governor Gavin Newsom signed an [executive order N-80-20](#) on September 23, 2020 that protected commercial tenants from being evicted until March 31, 2021. Santa Clara County passed an [ordinance NS-9.293](#) on November 3, 2020 extending the temporary moratorium on evictions in Santa Clara County for non-payment of rent by small business tenants through the date of Governor Newsom's Executive Order N-80-20 or April 30, 2021, whichever is earlier. California Governor Gavin Newsom signed legislation on March 4, 2021 that extended eviction moratorium through June 30, 2021 for commercial tenants. Under the County's moratorium, small business tenants have

up to six months after the moratorium expires or terminates to repay at least 50% of the past-due rent, and up to 12 months after the moratorium expires or terminates to repay in full the past-due rent.

## **Discussion**

Staff seeks Policy & Services Committee direction to determine final eligibility of tenants who qualify to participate in the rent forgiveness program. Staff has proposed tenant rent forgiveness program options and qualifications for tenants to meet.

The rent forgiveness program options in this report for the Committee to consider include:

- Option 1 – Rent Forgiveness using a pro rata share approach
- Option 2 – Rent Forgiveness using a COVID-19 impact approach
- Option 3 – No Rent Forgiveness

Further, staff recommends the Policy & Service Committee consider the following eight qualifications for the establishment of a rent forgiveness program, following Council direction with some variations. To simplify the qualification process staff eliminated the requirement that gross revenue be less than \$2.5 million in 2019. Staff also added the requirement that applicants have an active Business Registry account.

The recommended qualifications include:

1. The rent forgiveness program is available to tenants that have satisfied all responsibilities under their existing rental agreement, have no outstanding delinquencies for any payments due prior to April 1, 2020, and are current tenants as of the date of the application.
2. Tenants must be active in the City of Palo Alto Business Registry.
3. Tenants must cite section(s) of the County's Public Health Orders that restricted tenant's operations.
4. Rent must be over \$100 per month including operating expenses.
5. Tenants will be required to complete a form describing their impact from the COVID-19 pandemic and provide financial statements demonstrating the amount of reduced business revenue.
6. The business must provide an income statement demonstrating a decline in gross revenue during the first half of 2020 of at least 50% compared to the same period in 2019.
7. If a qualified tenant paid rent during the forgiveness period instead of deferring, the rent may qualify as credits to be used for rent owed in the following three months subject to an approved lease amendment.
8. Tenants that meet all qualifications will be required to enter into a lease amendment to the lease, subject to City Manager approval.

Based on the above qualifications, there is the possibility to assist 38 tenants or more depending on the actual number of tenants who qualify for Option C (Attachment A – List of Tenants). The rent forgiveness considers tenants experiencing a loss of revenue at a certain level attributed to the COVID-19 pandemic. To determine which tenants qualify and are most in need of rent forgiveness, tenants will be required to complete a form describing their impact from the COVID-19 pandemic and provide financial statements demonstrating the amount of reduced business revenue.

The list of proposed tenants excludes tenants that already received rent forgiveness from the Council adopted March 1, 2021 program and operational tenants who were not impacted by closures related to the Public Health Order such as cell towers and ground lease tenants. Staff considered using data on the number of Palo Alto residents served by the tenant to qualify applicants, however staff determined that the data would be hard to compare across applicants. Another option considered for analysis was using rent per square foot but the space for tenants varied in rent from below market rate space at Cubberley to market rate space which made it difficult to compare. It should be noted in the list of tenants that OB Sports Golf Management is unique in that they are both a tenant and vendor since they manage the golf course operations.

The following tenant statistics are provided as context when considering the program:

- The average rent per square foot is approximately \$1.50
- The rent per square foot ranges from \$0.27 to \$5.47
- Over 75% of the City’s for-profit tenants pay less than \$2.00 per square foot
- 60% of the City’s for-profit tenants rent space at Cubberley Community Center
- Over 90% of tenants’ rent is less than \$50,000 per month

Options for Policy & Service Committee consideration include:

Rent Forgiveness Options to Consider	Estimated Impact Cost	Time Covered
Option 1 – Rent Forgiveness using a pro rata share approach	Up to \$541,000*	Up to 3 months
Option 2 – Rent Forgiveness using a COVID-19 impact approach	Up to \$541,000*	Up to 3 months
Option 3 – No Rent Forgiveness	\$0	N/A

\* The cost could be more if the actual cost of Option C approved from the March 1, 2021 is less than \$203,000

- Option 1 – This option would provide rent forgiveness up to three months and not to exceed \$50,000 per tenant. The amount will be determined through a pro rata approach. The pro rata approach uses the monthly rent divided by the total

monthly rent to get a percentage which is then multiplied by the estimated impact cost. For example, if a tenant's rent is \$1,000 per month and the total rent combined for all qualified tenants is \$200,000, that equals .5%. If the estimated impact cost is \$541,000, the tenant would receive \$2,705 in rent forgiveness in this example. A tenant will be limited to three months of rent forgiveness. This approach would allow for an equitable distribution of rent forgiveness to all qualified tenants.

- Option 2 – This option would require analysis of financial statements from tenants to demonstrate a minimum of 50% loss in revenue between 2019 to 2020. Tenants would need to provide monthly financials for 2019 and 2020 in their application for staff to determine whether there was a loss revenue greater than 50%. If the tenant shows a loss throughout the year, the tenant would be eligible for rent forgiveness up to three months and not to exceed \$50,000. From a staff perspective, this option has the greatest administrative ease in implementation.
- Option 3 – This option would not provide rent forgiveness to tenants that did not qualify under the first program (adopted by Council on March 1, 2021 that supported non-profit tenants only). The County's eviction moratorium has been continued multiple times throughout 2020 and is scheduled to expire June 30, 2021. The eviction moratorium could be extended further into 2021. By delaying the forgiveness program until the eviction moratorium expires, staff may receive assistance or guidance from the state or other agency in helping tenants.

### **Timeline**

Staff will notify qualified tenants about the rent forgiveness program requirements and provide forms after City Council's approval following the Policy & Services committee's consideration and recommendation for Council review.

### **Resource Impact**

The FY 2021 Adopted Operating Budget includes a COVID-19 Council Reserve in the amount of \$744,000. On March 1, 2021, as part of [CMR #11872](#), Council approved the use of up to \$203,000 to forgive three months of rent in accordance with Option C. Council also approved the eight program qualifications and for funding to come from the City Council COVID19 Contingency Fund. The ultimate cost of the rental relief program could be up to the total amount of the COVID-19 Council Reserve, \$744,000; however, the final amount will depend on the number of tenants that apply and qualify for the program.

### **Stakeholder Engagement**

Since the Council Meeting on March 1, 2021, staff has continued to receive correspondence via telephone and email requesting rent forgiveness from tenants. Tenants have explained the hardship due to COVID-19 on their business operations.

The hardships experienced include lower enrollment numbers as business resumes in limited capacity, lack of space due to social distancing requirements, and inability to generate revenues to offset overhead cost. As the County's Public Health Order tiers become less restrictive, tenants have informed the City of their plans to resume their business operations at the limited capacities allowed.

**Environmental Review**

The rent reduction programs as proposed are not a project under CEQA per CEQA Guidelines 15061(b)(3).

**Attachments:**

- List of COPA Tenants

Tenant	Location	Program Eligibility
Advantage Aviation	Airport	For-Profit Forgiveness
Aero Works	Airport	For-Profit Forgiveness
Austro Aircraft	Airport	For-Profit Forgiveness
College of Palo Alto	Airport	For-Profit Forgiveness
JATO Aviation	Airport	For-Profit Forgiveness
Rossi Aircraft	Airport	For-Profit Forgiveness
Sundance Flying Club	Airport	For-Profit Forgiveness
Barbara Boissevain	Artist	For-Profit Forgiveness
Carmina Eliason	Artist	For-Profit Forgiveness
Chandrika Marla	Artist	For-Profit Forgiveness
Conrad Johnson	Artist	For-Profit Forgiveness
Danièle Archambault	Artist	For-Profit Forgiveness
Darryl Dieckman	Artist	For-Profit Forgiveness
Elizabeth Bennett	Artist	For-Profit Forgiveness
Ernest Regua	Artist	For-Profit Forgiveness
Harumo Sato	Artist	For-Profit Forgiveness
Jennifer Gonsalves	Artist	For-Profit Forgiveness
Martha Sakellariou	Artist	For-Profit Forgiveness
Mel Day	Artist	For-Profit Forgiveness
Paloma Lucas	Artist	For-Profit Forgiveness
Pantea Karimi	Artist	For-Profit Forgiveness
Patrick Fenton	Artist	For-Profit Forgiveness
Rachelle Doorley	Artist	For-Profit Forgiveness
Robin Mullery	Artist	For-Profit Forgiveness
Sahba Shere	Artist	For-Profit Forgiveness
Servane Briand	Artist	For-Profit Forgiveness
t.w. five (Andersson, Pernilla / Pereira, Paula)	Artist	For-Profit Forgiveness
Tara de la Garza	Artist	For-Profit Forgiveness
JSRFIT LLC d.b.a. Form Fitness	Bryant Street	For-Profit Forgiveness
Sanghee Lee	City Hall	For-Profit Forgiveness
Acme Education Group, Inc.	Cubberley	For-Profit Forgiveness
California Law Review	Cubberley	For-Profit Forgiveness
Dance Connection	Cubberley	For-Profit Forgiveness
Melody Academy of Music Inc.	Cubberley	For-Profit Forgiveness
Ranger Taekwondo	Cubberley	For-Profit Forgiveness
OB Sports Golf Management (Baylands), LLC	Embarcadero Road	For-Profit Forgiveness
Kids Choice	Stanford Avenue	For-Profit Forgiveness
Palo Alto Lawn Bowls Club	Waverley Street	For-Profit Forgiveness
Stanford Flying Club	Airport	Non-Profit Forgiveness
West Valley Flying Club	Airport	Non-Profit Forgiveness
Avenidas	Cubberley	Non-Profit Forgiveness
BrainVyne	Cubberley	Non-Profit Forgiveness
California Pop Orchestra	Cubberley	Non-Profit Forgiveness
Children's Pre-School Center	Cubberley	Non-Profit Forgiveness
Dance Action inc (dba Dance Visions)	Cubberley	Non-Profit Forgiveness
Dance Magic	Cubberley	Non-Profit Forgiveness

Friends of the Palo Alto Library	Cubberley	Non-Profit Forgiveness
Heart Fit for Life (Cardiac Therapy Foundation)	Cubberley	Non-Profit Forgiveness
Hua Kuang Chinese Reading Room	Cubberley	Non-Profit Forgiveness
Living Wisdom High School	Cubberley	Non-Profit Forgiveness
Minority Television Project	Cubberley	Non-Profit Forgiveness
Palo Alto Community Child Care	Cubberley	Non-Profit Forgiveness
Palo Alto Humane Society	Cubberley	Non-Profit Forgiveness
Palo Alto Soccer Club	Cubberley	Non-Profit Forgiveness
Reach	Cubberley	Non-Profit Forgiveness
Zohar Dance Company	Cubberley	Non-Profit Forgiveness
Palo Alto Players-Peninsula Center Stage	Lucie Stern	Non-Profit Forgiveness
Bay Area Cellular Telephone Company dba AT&T	Cell Tower	Operations Not Restricted
GTE Mobilenet of California Limited Partnership (Verizon)	Cell Tower	Operations Not Restricted
Omnipoint Communications, Inc (T-Mobile)	Cell Tower	Operations Not Restricted
PTI US Towers II, LLC	Cell Tower	Operations Not Restricted
Sprint Spectrum L.P.	Cell Tower	Operations Not Restricted
Me Fit Vending, LLC	City Hall	Operations Not Restricted
San Mateo Credit Union	City Hall	Operations Not Restricted
Anderson Honda	Geng Road	Operations Not Restricted
The Purple Pipe LLC	LATP	Operations Not Restricted
Valley Transportation Authority	Train Depot	Operations Not Restricted
Precision Engineering, Inc.	N/A	No Longer a Tenant
Abundant Air Café	N/A	No Longer a Tenant
Art of Living Foundation	N/A	No Longer a Tenant
Catherine di Napoli	N/A	No Longer a Tenant
Community For Christ Church of Palo Alto	N/A	No Longer a Tenant
Good Neighbor Montessori	N/A	No Longer a Tenant
Imagination School	N/A	No Longer a Tenant
IVY GOAL EDUCATION CO	N/A	No Longer a Tenant
Karer CDC LLC	N/A	No Longer a Tenant
Silicon Valley Karate	N/A	No Longer a Tenant
Yishu Wang	N/A	No Longer a Tenant