



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE AND EXECUTE AMENDMENTS TO SEVEN LEASES WITH THE FOLLOWING TENANTS: BIG OAKLAND, AWAKEN CAFE, DOWNTOWN WINE MERCHANT, PAN THEATER AND STUDIO-FAB, 130 CAFE, BETTI ONO GALLERY, AND PRO ARTS, TO (1) FORGIVE UP TO FIFTY (50) PERCENT OF OUTSTANDING RENT BALANCES NOT TO EXCEED \$185,000 TOTAL FORGIVENESS; AND (2) REDUCE FUTURE RENTS BY UP TO FIFTY (50) PERCENT ENDING NO LATER THAN JUNE 30, 2022 NOT TO EXCEED \$145,000 TOTAL RENT REDUCTION**

**WHEREAS**, on March 1, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP declared a Local Health Emergency in response to the COVID-19 pandemic threat to public health and safety; and

**WHEREAS**, on March 4, 2020, California Governor Gavin Newsom proclaimed that a State of Emergency exists in California as a result of the threat of COVID-19; and

**WHEREAS**, on March 16, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP issued a Shelter-in-Place Order, further amending the order on April 29, 2020, that requires all Alameda County Residents to stay in their homes and leave only for specified essential purposes; and

**WHEREAS**, the Shelter-in-Place Orders issued by Alameda County in response to the global COVID-19 pandemic caused severe economic hardship for Oakland businesses; and

**WHEREAS**, the City owns most of the property in Frank H. Ogawa Plaza (the "Plaza"), the City workforce drives demand for services in the Plaza and, therefore, the City has extraordinary influence on economic conditions in the Plaza; and

**WHEREAS**, seven (7) City tenants in the City's Lionel J. Wilson Building in the Plaza have fallen behind on rent due to the economic impacts of the COVID-19 pandemic and the economic conditions in the Plaza. These seven tenants are Big Oakland, a California Limited Liability Company; Awaken Café, a California Limited Liability Company; Wolfgang & Susanne,

a Limited Liability Company doing business as Downtown Wine Merchant; David Alger, an individual doing business as Pan Theater and Studio-FAB a California Limited Liability Company; Wilson Fung, an individual doing business as 130 Café; Anyka Barber an individual and Yvette Price, an individual doing business as Betti Ono Gallery and Pro Arts, a California Nonprofit Corporation (collectively the “Seven Plaza Tenants”). The Seven Plaza Tenants are now substantially in debt and in need of a recovery period to return to levels of revenue necessary to satisfy their lease obligations; and

**WHEREAS**, except for the Seven Plaza Tenants the remainder of the City’s tenants have been able to satisfy their lease obligations throughout the COVID-19 pandemic; and

**WHEREAS**, by enforcing the terms of these seven leases without relief the City would likely cause these businesses to close or relocate and eliminate jobs that might otherwise soon return to the Plaza. It would be difficult for the City to secure replacement tenants at comparable rental rates in the near-term due to poor economic conditions in the Plaza and more broadly; and

**WHEREAS**, City Staff believes that rent relief with limited rent forgiveness and temporary rent reduction limited to the Seven Plaza Tenants would help to avert this outcome and be in the City’s best interest; and

**WHEREAS**, Staff recommends that the City forgive up to fifty (50) percent of outstanding rent balances not to exceed \$185,000 total forgiveness for all seven leases; and

**WHEREAS**, Staff recommends that the City additionally reduce future rents by up to fifty (50) percent ending no later than June 30, 2022 not to exceed \$145,000 total rent reduction for all seven leases; and

**WHEREAS**, the recommended rent relief would apply only to the Seven Plaza Tenants listed in the title of this Ordinance given the unique economic conditions in the Plaza, the City’s extraordinary influence on economic conditions in the Plaza, the unique hardships faced by the Seven Plaza Tenants, and the lack of suitable alternatives; and

**WHEREAS**, Staff would negotiate specific terms with each of the Seven Plaza Tenants, including schedules for repaying unforgiven past rent, so as not to exceed each tenant’s needs and so as to limit the fiscal impact to the City; and

**WHEREAS**, revenue to the City from these seven leases in future fiscal years would be higher than otherwise provided under current lease terms, as the Seven Plaza Tenants would be repaying the unforgiven portion of their outstanding rent balances in addition to their base rent; and

**WHEREAS**, the proposed rent relief is consistent with the Oakland Economic Recovery Advisory Council’s recommendations for landlords, which called for a shared-burden approach, and adopting this Ordinance could influence broader market behavior and thereby contribute to broader economic stability in Oakland.

**NOW, THEREFORE, THE CITY 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.** The City Council hereby authorizes the City Administrator, or designee, to negotiate and execute amendments to the leases with the Seven Plaza Tenants, to (1) forgive up to fifty (50) percent of outstanding rent balances not to exceed \$185,000 total forgiveness; and (2) reduce future rents by up to fifty (50) percent ending no later than June 30, 2022 not to exceed \$145,000 total rent reduction.

**SECTION 3.** The City Administrator, or designee, shall negotiate specific terms with each of the Seven Plaza Tenants, including schedules for repaying unforgiven past rent, so as not to exceed each tenant's needs and so as to limit the fiscal impact to the City. Said terms shall be memorialized in amendments to each lease and be binding upon the tenants.

**SECTION 4.** The City Attorney's Office shall review and approve the amendments as to form and legality and consistency with this Ordinance, and a copy of each shall be placed on file with the City Clerk.

**SECTION 5.** 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 6.** 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 – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –  
ABSENT –  
ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE AND EXECUTE AMENDMENTS TO SEVEN LEASES WITH THE FOLLOWING TENANTS: BIG OAKLAND, AWAKEN CAFE, DOWNTOWN WINE MERCHANT, PAN THEATER AND STUDIO-FAB, 130 CAFE, BETTI ONO GALLERY, AND PRO ARTS, TO (1) FORGIVE UP TO FIFTY (50) PERCENT OF OUTSTANDING RENT BALANCES NOT TO EXCEED \$185,000 TOTAL FORGIVENESS; AND (2) REDUCE FUTURE RENTS BY UP TO FIFTY (50) PERCENT ENDING NO LATER THAN JUNE 30, 2022 NOT TO EXCEED \$145,000 TOTAL RENT REDUCTION**

This Ordinance addresses the economic impact on COVID-19 and Shelter-In-Place orders on tenants in Frank H. Ogawa Plaza. The Ordinance would authorize the City Administrator, or designee, to negotiate and enter into amendments with seven tenants in the City-owned buildings within Frank H. Ogawa Plaza, including Big Oakland, Awaken Cafe, Downtown Wine Merchant, Pan Theater and Studio-FAB, 130 Cafe, Betti Ono Gallery, and Pro Arts to forgive up to fifty (50) percent of outstanding rent balances for each of these tenants, in a total amount not to exceed \$185,000 for all tenants. The City Administrator would also be authorized to amend the leases with the abovementioned tenants to reduce future rents up to fifty (50) percent, not to exceed \$145,000 total reduction for all tenants, with such reduced rents ending no later than June 30, 2022. The specific terms of the amendments would take into account each tenant's needs so as to limit the fiscal impacts to the City.