RESOLUTION NO. 2020-R_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, CONFIRMING THE NOVEMBER 12, 2020 THIRTIETH SUPPLEMENT TO PUBLIC ORDER (EXTENSION OF COMMERCIAL TENANT EVICTION MORATORIUM) ISSUED BY THE CITY MANAGER, AS DIRECTOR OF EMERGENCY SERVICES, UNDER CITY OF CULVER CITY EMERGENCY AUTHORITY, DUE TO THE CORONAVIRUS RESPIRATORY DISEASE (COVID-19) PANDEMIC.

WHEREAS, pursuant to the authority granted by Culver City Municipal Code (CCMC) Section 3.09.020, on March 14, 2020, the City Manager, as the Director of Emergency Services, issued a Proclamation of Local Emergency due to the outbreak and spread of the Coronavirus respiratory disease (COVID-19), which was ratified by the City Council on March 18, 2020 by Resolution No. 2020-R015. Such action followed the Los Angeles County Department of Public Health's and the Chair of the Board of Supervisor's declarations of a local health emergency and the State of California's declaration of a State of Emergency on March 4, 2020, and the President's declaration of a National Emergency on March 13, 2020; and

WHEREAS, as of December 8, 2020 (9:27 a.m.), Johns Hopkins University reported 67,878,809 confirmed COVID-19 cases globally and 1,550,579 deaths; 14,986,923 cases nationally, with 284,440 deaths; and 1,396,219 cases in California, with 20,056 deaths. Further, as of December 7, 2020, the Los Angeles County Department of Public Health (LACDPH) reported 457,880 cases in Los Angeles County with 7,936 deaths, which includes 726 cases and 35 deaths in Culver City (LACDPH information includes data through 8 p.m. on 12/06/2020). As there is a rapid increase in cases and ongoing significant risk of infection

throughout the United States and the State of California, the federal Centers for Disease Control and Prevention and the California Department of Public Health are recommending that counties and cities throughout the U.S. continue to actively address the COVID-19 pandemic and implement aggressive measures to prevent the spread of COVID-19; and

WHEREAS, during this unprecedented time, various orders have been issued by the State of California and the Los Angeles County Department of Public Health, as well as a number of our neighboring communities, designed to protect both residential and commercial tenants from eviction during the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, under the authority of CCMC Section 3.09.020, the City Manager issued a Public Order enacting City measures to protect members of the public and City workers from undue risk of COVID-19, which included, among other things, the imposition of a moratorium on residential tenant evictions ("Residential Tenant Eviction Moratorium" or "RTEM"), prohibiting a landlord from evicting a residential tenant in the City of Culver City during this local emergency period if the tenant documents an inability to pay rent due to circumstances related to the COVID-19 pandemic; and

WHEREAS, on March 20, 2020, the City Manager issued a First Supplement to Public Order ("March 20 Order"), which included, among other things, protections for commercial tenants against evictions based on an inability to pay rent due to COVID-19 related circumstances ("Commercial Tenant Eviction Moratorium" or "CTEM"); and

WHEREAS, since the initial orders establishing the Residential Tenant Eviction Moratorium and the Commercial Tenant Eviction Moratorium (collectively, "Eviction Moratoria"), the following additional public orders and implementation measures have been issued with respect to the Eviction Moratoria:

- March 20, 2020 RTEM Implementation Measures implementing the March 16 Order;
- March 27, 2020 Second Supplement to Public Order extending the RTEM through May 31, 2020 and expanding its scope ("March 27 Order");
- March 27, 2020 CTEM Implementation Measures implementing the March 20 Order;
- April 3, 2020 RTEM Amended Implementation Measures implementing the March 27 Order (April 3 Order);
- April 7, 2020 Fifth Supplement to Public Order extending the CTEM through May 31, 2020 ("April 7 Order");
- April 28, 2020 Eighth Supplement to Public Order extending the period for the payment of back rent to 12 months after the expiration of the Eviction Moratoria ("April 28 Order");
- April 29, 2020 RTEM Second Amended Implementation Measure implementing the April 28 Order;
- April 29, 2020 CTEM Amended Implementation Measures implementing the April 7 and April 28 Orders;
- May 12, 2020 RTEM Third Amended Implementation Measures adding provisions to encourage and incentivize a landlord and tenant to negotiate a repayment plan over the 12-month grace period;
- May 19, 2020 Twelfth Supplement to Public Order (Revised May 26, 2020) extending the Eviction Moratoria to August 31, 2020 or the end of the Local Emergency, whichever occurs earlier; and excluding from the CTEM multi-national companies, publicly traded companies, or companies that employ 200 or more employees ("May 19 Order");
- May 20, 2020 RTEM Fourth Amended Implementation Measures implementing the May 19 Order;
- May 20, 2020 CTEM Second Amended Implementation Measures implementing the May 19 Order and adding provisions to encourage and incentivize a landlord and tenant to negotiate a repayment plan over the 12-month applicable grace periods;
- May 26, 2020 CTEM Third Amended Implementation Measures clarifying exception for commercial tenants employing 200 or more employees; and
- May 27, 2020 CTEM Fourth Amended Implementation Measures implementing May 19 Order.
- August 4, 2020 Twenty-Second Supplement to Public Order extending the Eviction Moratoria through September 30, 2020 ("August 4 Order"); and
- August 4, 2020 RTEM and CTEM Fifth Amended Implementation Measures implementing the August 4 Order; and

WHEREAS, on September 14, 2020, the City Council discussed the status of the Eviction Moratoria and the current financial climate for Culver City's residential and commercial tenants. Due to the preemption by AB 3088, the City Council did not direct any extension of

the Residential Tenant Eviction Moratorium at this time. However, the City Council directed extension of the Commercial Tenant Eviction Moratorium through January 31, 2021. In addition, City Council directed staff to work with the Economic Recovery Task Force (ERTF) to explore potential classifications or modifications to the current moratorium relative to reopening parameters outlined by the State and County; and

WHEREAS, on September 17, 2020, the City Manager issued a Twenty-Sixth Supplement to Public Order ("September 17 Order") consistent with the with the City Council's direction. The CTEM Implementation Measures were also amended consistent with the September 17 Order; and

WHEREAS, on November 9, 2020, the City Council discussed the ERTF's comments and recommendations regarding the Commercial Tenant Eviction Moratorium with the goal of determining if modifications to the CTEM could facilitate current rent payment and reduce large and likely untenable payments triggered at the termination of the Moratorium and expiration of the 12-month grace period for the repayment of back rent. After thorough deliberation of the matter, the City Council (1) determined that further discussion and analysis is needed and directed staff to work with the City Council Economic Development Subcommittee on the issues of (a) potential mediation program, (b) redefining rent to exclude common area maintenance (CAM) fees, (c) tiered payment structure, and (d) increased advocacy for federal and state forbearance intervention; (2) directed staff to return to City Council in January 2021 for further discussion of the CTEM; and (3) directed the City Manager to extend the CTEM through March 31, 2021.; and

WHEREAS, on November 12, 2020, the City Manager issued the Thirtieth Supplement to Public Order consistent with the City Council's November 9th direction

("November 12 Order"). The CTEM implementation measures were also amended consistent with the November 12 Order.

NOW, THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY RESOLVE as follows:

1. Pursuant to CCMC Section 3.09.020.B.1.h(2), the City Council hereby confirms the Thirtieth Supplement to Public Order issued by the Director of Emergency Services on November 12, 2020, attached hereto as Exhibit A and incorporated herein as though fully set forth.

2. The City Council finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA guidelines, California Code of Regulations, Title 14, Chapter 3, §15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and §15060(c)(3) [the activity is not a project as defined in §15378] because it has no potential for resulting in physical change to the environment, directly or indirectly.

3. This Resolution shall take effective immediately upon its adoption.

APPROVED and ADOPTED this _____day of _____ 2020.

_____
GÖRAN ERIKSSON, MAYOR
City of Culver City, California

ATTEST:

_____
JEREMY GREEN
City Clerk

APPROVED AS TO FORM:

_____
for CAROL A. SCHWAB
City Attorney

A20-00362

EXHIBIT A

CITY MANAGER'S OFFICE

CITY OF CULVER CITY

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JOHN M. NACHBAR
CITY MANAGER

Thirtieth Supplement to Public Order Under City of Culver City Emergency Authority

Issue Date: November 12, 2020

Subject: Extension of Commercial Tenant Eviction Moratorium

On March 14, 2020, I issued a Proclamation of Local Emergency, as a result of a positive coronavirus respiratory disease (COVID-19) case in our City as well as a rapid increase in cases throughout Los Angeles County ("Local Emergency"). Since that time, I have ordered a number of additional measures to be taken across the City to protect the public and City workers from an undue risk of contracting the COVID-19 virus.

During this unprecedented time, various orders have been issued by the State of California and the Los Angeles County Department of Public Health, as well as a number of our neighboring communities, designed to protect both residential and commercial tenants from eviction during the COVID-19 pandemic.

On March 16, 2020, I issued a Public Order enacting new City measures to protect members of the public and City workers from undue risk of COVID-19, which included the imposition of a moratorium on residential tenant evictions ("Residential Tenant Eviction Moratorium" or "RTEM"). On March 27th, the RTEM was expanded in scope and extended to May 31, 2020.

Subsequently, on March 20, 2020, I issued a First Supplement to Public Order, which included protections for commercial tenants against evictions based on an inability to pay rent due to COVID-19 related circumstances ("Commercial Tenant Eviction Moratorium" or "CTEM"). The RTEM and the CTEM are collectively referred to as "Eviction Moratoria."

On April 7, 2020, as economic impacts continued, affecting both residential and commercial tenants and their ability to fulfill their financial obligations, including the payment of rent, I issued a Fifth Supplement to Public Order extending the Commercial Tenant Eviction Moratorium through May 31, 2020 to align with the Residential Tenant Eviction Moratorium.

On April 27, 2020, the City Council considered and discussed concerns of a slow financial recovery once the stay at home orders are lifted and tenants are able to go back to work or reopen a business, as the case may be, and the challenge for tenants to repay unpaid rent that accrued during the Eviction Moratoria ("Back Rent") while keeping up with

current rent due; and the City Council directed the City Manager to extend the period for the payment of Back Rent from 6 months to 12 months, finding there to be a public interest in ensuring tenants have a sufficient recovery period once the Eviction Moratoria have expired, preserving and increasing housing security and stability, and preventing residents from falling into homelessness due to this health crisis.

On April 28, 2020, I issued an Eighth Supplement to Public Order extending the grace period within which a tenant has to repay Back Rent to 12 months after the expiration of the Eviction Moratoria, consistent with the City Council's direction.

On May 11 and May 18, 2020, the City Council discussed possible options for including repayment plan provisions in the Eviction Moratoria, in order to ensure that tenants are not faced with unmanageable "balloon payments" at the end of the 12-month grace period, and risk eviction for nonpayment of Back Rent, and directed the City Manager to include provisions in the Eviction Moratoria to encourage and incentivize a landlord and tenant to negotiate a repayment plan over the 12-month grace period. The respective implementation measures for the Eviction Moratoria were updated accordingly.

Also on May 18, 2020, the City Council considered extension of the Eviction Moratoria and exceptions to the Commercial Tenant Eviction Moratorium for larger companies, and directed the City Manager to issue a public order to (1) extend the Eviction Moratoria to August 31, 2020 or the end of the Local Emergency, whichever occurs earlier; (2) exclude from the CTEM multi-national companies, publicly traded companies, or companies that employ 200 or more employees; and (3) reduce the grace period for the repayment of Back Rent from 12 months to 6 months for commercial tenants that have 10 or more, but less than 200, employees.

On May 19, 2020, I issued a Twelfth Supplement to Public Order consistent with the with the City Council's direction.

On May 26, 2020, the City Council amended the May 19, 2020 Order to strike the provision, which reduced the grace period for the repayment of Back Rent from 12 months to 6 months for commercial tenants that have 10 or more, but less than 200, employees.

In late June and during the month of July, 2020, due to increases in the daily reported COVID-19 cases, hospitalizations, and the testing positivity rates, the Los Angeles County Public Health Officer issued revised orders, in alignment with the California Governor's announcements, requiring the closure of specific activities and business sectors, superseding previous orders (which had allowed many businesses to reopen), to address the serious regression of COVID-19 indicators within Los Angeles County. Such closures of certain higher risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur, superseded any previous openings permitted in Culver City.

On August 3, 2020, the City Council discussed an extension of the Eviction Moratoria based on concerns that although the City is in a "recovery" period, these recent closures will have a significant financial impact on many individuals and businesses. While some people have been able to go back to work or reopen a business, many others are still out of work and many businesses have been ordered to close once again. As a result, it will be a slow financial recovery and may be challenging for many tenants, both residential and commercial, to begin paying rent on September 1, 2020, if the current Eviction Moratoria expire on August 31, 2020. As such, the City Council directed the City Manager to extend the Eviction Moratoria to September 30, 2020.

On August 4, 2020 I issued a Twenty-Second Supplement to Public Order consistent with the with the City Council's direction.

On August 31, 2020, the Governor signed AB 3088, the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, urgency legislation which took effect immediately. The Act consists of two components, the COVID-19 Small Landlord and Homeowner Relief Act of 2020, which addresses mortgage relief; and the COVID-19 Tenant Relief Act of 2020 ("CTRA"), which addresses non-payment of rent due to COVID-19. Under AB 3088 the City's Residential Tenant Eviction Moratorium will remain in effect until its current expiration date of September 30, 2020; however, any extension or modification would not become effective until February 1, 2021.

On September 14, 2020, the City Council discussed the status of the Eviction Moratoria and the current financial climate for Culver City's residential and commercial tenants. Due to the preemption by AB 3088, the City Council did not direct any extension of the Residential Tenant Eviction Moratorium at this time. However, the City Council directed extension of the Commercial Tenant Eviction Moratorium through January 31, 2021. In addition, City Council directed staff to work with the Economic Recovery Task Force (ERTF) to explore potential classifications or modifications to the current moratorium relative to reopening parameters outlined by the State and County.

On September 17, 2020, I issued a Twenty-Sixth Supplement to Public Order consistent with the with the City Council's direction.

During October 2020, the County of Los Angeles Public Health Officer revised its Orders and protocols to continue to phase in additional limited reopenings; however, businesses continue to experience a slow financial recovery. According to a September 2020 Economic Impact Report issued by Yelp, there has been a 34% increase in permanent business closures since mid-July. Further, there is extremely limited financial assistance available to both landlords and tenants of commercial property.

On November 9, 2020, the City Council discussed the ERTF's comments and recommendations regarding the Commercial Tenant Eviction Moratorium with the goal of determining if modifications to the CTEM could facilitate current rent payment and reduce large and likely untenable payments triggered at the termination of the Moratorium and

expiration of the 12-month grace period for the repayment of back rent. After thorough deliberation of the matter, the City Council (1) determined that further discussion and analysis is needed and directed staff to work with the City Council Economic Development Subcommittee on the issues of (a) potential mediation program, (b) redefining rent to exclude common area maintenance (CAM) fees, (c) tiered payment structure, and (d) increased advocacy for federal and state forbearance intervention; (2) directed staff to return to City Council in January 2021 for further discussion of the CTEM; and (3) directed the City Manager to extend the CTEM through March 31, 2021.

By virtue of the authority vested in me as the Director of Emergency Services, pursuant to the provisions of CCMC Section 3.09.020.B.1.h(2), to make and issue rules and regulations on matters reasonably related to the protection of persons, property and the environment as affected by such emergency, I hereby declare the following orders to be necessary for the protection of life and property and I hereby order ("Public Order"):

1. The Commercial Tenant Eviction Moratorium shall be extended through March 31, 2021.

2. The CTEM implementation measures shall be amended to be consistent with this Public Order.

3. All other provisions of the Commercial Tenant Eviction Moratorium, not specifically amended herein, shall remain in full force and effect through March 31, 2021.

Pursuant to the authority set forth in Ordinance No. 2020-007, each and every violation of the Eviction Moratoria may be subject to an administrative fine of up to $1,000. Each separate day, or any portion thereof, during which any violation occurs or continues, constitutes a separate violation.

Any violation of this Public Order may also be enforced under the CCMC, which provides for criminal penalties not to exceed $1,000 or imprisonment not to exceed six months or both. Individual officers should use their discretion in enforcing this Public Order and always keep the intent of this Public Order in mind.

This Public Order shall be effective immediately and shall remain in effect through March 31, 2021. This Public Order may be superseded, amended, modified, extended or rescinded prior to March 31, 2021.

Date: 11/12/2020

John M. Nachbar, City Manager
Director of Emergency Services
City of Culver City