



# City of Culver City

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## Staff Report

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**CC - Adoption of a Resolution Confirming the February 25, 2021 Thirty-Fourth Supplement to Public Order (Extension of and Modifications to 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.**

**Meeting Date:** March 8, 2020

**Contact Person/Dept:** Heather Baker/City Attorney's Office

**Phone Number:** (310) 253-5660

**Fiscal Impact:** Yes ☒ No ☐ **General Fund:** Yes ☒ No ☐

**Public Hearing:** ☐ **Action Item:** ☐ **Attachments:** ☒

**Commission Action Required:** Yes ☐ No ☒ **Date:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (03/03/2021);

**Department Approval:** John M. Nachbar, City Manager (03/03/2021)

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### **RECOMMENDATION**

Staff recommends the City Council adopt a Resolution confirming the February 25, 2021 Thirty-Fourth Supplement to Public Order (Extension of Eviction Moratoria), under City of Culver City emergency authority, due to the coronavirus respiratory disease (COVID-19) pandemic.

### **BACKGROUND / DISCUSSION**

On March 14, 2020, pursuant to the authority granted by Culver City Municipal Code ("CCMC") Section 3.09.020.B.1.a, 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") pandemic ("Local Emergency").

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, the City Manager 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, among other things, the imposition of a moratorium on residential tenant evictions (“Residential Tenant Eviction Moratorium” or “RTEM”). The Residential Tenant Eviction Moratorium stipulated that no landlord shall evict 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.

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”). The RTEM and CTEM are collectively referred to as “Eviction Moratoria.”

Since the initial orders establishing the 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.

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, 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.

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 (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.

On November 12, 2020, the City Manager issued the Thirtieth Supplement to Public Order, extending the CTEM through March 31, 2021, consistent with the City Council's November 9<sup>th</sup> direction ("November 12 Order"). The CTEM Implementation Measures were also amended consistent with the November 12 Order.

On February 9, 2021 the Subcommittee discussed the above-listed and other issues, and made the following recommendations to the City Council: (1) modify the definition of Commercial Tenant to exclude, effective March 1, 2021, companies that, together with that company's parent, subsidiary, affiliated, and related companies, employed 200 or more employees on March 20, 2020; (2) effective April 1, 2021(if the CTEM is further extended), require a Commercial Tenant to pay 25% of their current rent, in addition to providing notice and documentation of their inability to pay full rent, in order to receive the protections of the CTEM; (3) update documentation requirements for a tenant to demonstrate an inability to pay rent due to COVID-19 related circumstances; and refer of landlords and tenants to pro bono mediation services; and (4) require a minimum monthly payment of back rent during the 12-month grace period. The Subcommittee also recommended the City Council consider a further extension of the CTEM beyond the March 31, 2021 expiration date.

At its meeting of February 22, 2021, the City Council considered the Subcommittee's recommendations, as well as additional information from staff, and directed the City Manager to:

- Extend the CTEM until the termination of the local emergency.
- Effective April 1, 2021, require tenants to pay 25% of current rent due in order to receive the protection of the CTEM. If the landlord and tenant already have another payment arrangement in place for current rent, that agreement will supersede this condition.
- Effective March 1, 2021, modify the definition of Commercial Tenant to exclude a multi-national company, publicly traded company, or a company that, together with that company's parent, subsidiary, affiliated, and related companies, employed 200 or more employees on March 20, 2020.
- Refer parties to no-cost mediation services.

The City Council also gave staff the discretion to further enhance and clarify documentation requirements.

On February 25, 2021, the City Manager issued the Thirty-Fourth Supplement to Public Order, extending the CTEM through the termination of the Local Emergency, and making other modifications to the CTEM, consistent with the City Council's February 22<sup>nd</sup> direction ("February 25 Order"). The CTEM Implementation Measures were also amended consistent with the City Council's direction and the City Manager's February 25 Order.

Pursuant to CCMC Section 3.09.020.B.1.h(2), staff recommends the City Council adopt the proposed Resolution confirming the February 25 Order issued by the Director of Emergency Services (Attachment 1). The amended CTEM Implementation Measures are also included for City Council's reference (Attachment 2).

## **FISCAL ANALYSIS**

There may be staff costs associated with the enforcement of the February 25 Order and related CTEM Implementation Measures; however, it is not estimated to be material at this time. If staff incurs any overtime with the enforcement of the Order and Implementation Measures, the overtime will be tracked and included with the FEMA reimbursement requests.

## **ATTACHMENTS**

1. 2021-03-08\_ATT 1\_Proposed Resolution Confirming February 25 Order
2. 2021-03-08\_ATT 2\_CTEM Implementation Measures

## **MOTION**

That the City Council:

Adopt a Resolution confirming the February 25, 2021 Thirty-Fourth Supplement to Public Order (Extension of and Modifications to 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.