SUBJECT: AMENDMENT TO AGREEMENT WITH BET TZEDEK LEGAL SERVICES

INITIATED BY: HUMAN SERVICES & RENT STABILIZATION DEPARTMENT

(Initiators: Corri Planck, Acting Director; David Giugni, Social Services Manager; Derek Murray, Social Services Program Administrator; Peter Noonan, Manager, Rent Stabilization and Housing Division)

ADMINISTRATIVE SERVICES DEPARTMENT

(Initiators: Christof Schroeder, Director; Alison Regan, Staff Attorney)

STATEMENT ON THE SUBJECT:

The City Council will consider an amendment to the agreement with Bet Tzedek Legal Services to continue the Eviction Prevention and Defense Program for an additional six months in order to provide services and legal representation to all West Hollywood tenants facing eviction proceedings.

RECOMMENDATIONS:

1) Approve Amendment 4 to the agreement for services with Bet Tzedek Legal Services for a total not-to-exceed amount of $458,367 to provide legal representation to all tenants facing eviction through March 31st, 2020; and

2) Authorize the Director of Finance & Technology Services to allocate $82,114 from unallocated reserves in the General Fund to account number 100-3-05-53-536037 for emergency funding related to emergency response activities and services including without limitation, legal services; and

3) Authorize the City Manager or designee to execute all documents incident to the agreement and authorize the Finance Director to allocate the funds accordingly.

BACKGROUND / ANALYSIS:

State of eviction moratorium at state and local level

On March 4, 2020, California’s Governor declared a State of Emergency to address the COVID-19 pandemic. On March 16, 2020 the City of West Hollywood declared a local emergency to ensure the availability of mutual aid and an effective City response to the impacts of COVID-19.
On March 16, 2020 the City passed an urgency ordinance, which instituted an eviction moratorium covering non-payment of rent and unauthorized occupants. On June 15, 2020 the City expanded the moratorium to prohibit all evictions except in certain specified circumstances. The ordinance also allows tenants to defer paying rent during the effective period due to financial impacts related to COVID-19. Tenants have up to 12 months after the moratorium ends to repay deferred rental payments. Landlords are prohibited from evicting tenants for nonpayment of the deferred rent during this repayment period. On July 20, 2020 this moratorium was extended and is currently in effect through September 30, 2020.

On April 6, 2020 the City amended the urgency ordinance to prohibit rent increases in rent-stabilized units through 60 days after the expiration of the local emergency period.

Effective April 6, 2020 the Judicial Council of CA adopted emergency rules amending the California Rules of Court to effectively suspend all unlawful detainer (eviction) and foreclosure actions, unless necessary to protect public health and safety, until 90 days after the state’s declaration of emergency is lifted. The Judicial Council recently voted to amend this rule, known as Rule 1, so that it expired as of September 1, 2020.

In the meantime, the state legislature passed AB 3088, which contains a number of substantive and procedural amendments to the laws governing unlawful detainer. Under this law, processing of unlawful detainer complaints will resume on October 1, 2020. The law prohibits evictions for nonpayment of rent before February 1, 2021 if tenants meet certain criteria. Among other things, the law changes the parameters under which tenants may defer their rental payments. It sets up a “transition period” from September 1, 2020 to January 31, 2021. Tenants who are unable to pay rent due to COVID-19 impacts during this period are required to pay at least 25% of their rent by January 31, 2021 to avoid eviction. In addition, what was normally a 3-day notice period to respond to an initial eviction notice has been expanded to 15 days while this state law is in effect.

Need for the Eviction Defense Program

This shifting legal landscape around the rights and obligations for both landlords and tenants, and its effect on the City’s current eviction moratorium, makes it even more critical that tenants have access to legal representation. With the passage of AB 3088, the City’s eviction moratorium regarding deferring rental payments cannot be extended beyond its current expiration date of September 30. At that time, tenants who cannot pay their rent due to financial impacts of COVID-19 will be subject to the framework of the state law. This framework can be very difficult and confusing to navigate and understand without legal assistance. Moreover, the City can still limit other grounds for eviction during this time so will likely keep in place the urgency ordinance provisions that limit permissible grounds for eviction other than nonpayment of rent. This is another layer of legal rights of which tenants may be unaware without legal counsel.

Continuing the Eviction Prevention and Defense Program will allow more West Hollywood residents access to legal representation so that tenants can ascertain their rights and responsibilities to prevent unnecessary displacement. This program is beneficial to both landlords and tenants so that all parties can communicate effectively about their respective rights and obligations.
Even though the Los Angeles County COVID-19 transmission rate has significantly declined since the state was required to, once again, shutter many businesses, such as bars and clubs, and restrict gatherings that were seen as the source of the transmission spikes, the rate is still too high to move LA County off of Tier 1 in the governor’s tiered system for re-opening. Thus, this program’s efforts to prevent evictions will help residents remain in their homes to keep themselves and their families safe and contain the spread of the virus. The LA County Department of Public Health’s Health Officer Order (HOO) maintains that staying at home is the best way to prevent community spread of COVID-19.

Current program parameters and anticipated need

Under the new state law, courts will resume processing eviction cases on October 1, 2020. Pre-COVID-19, city eviction rates typically ranged between 5 to 15%. Although precise eviction rates for West Hollywood cannot be predicted with certainty, early preparation and increased resources are critical. Prior to COVID-19, with more than 25,000 renters, we assumed at least 400 tenants in West Hollywood would require eviction representation each year. Furthermore, in Los Angeles County it is estimated that 90% of tenants are unrepresented by legal counsel, while 90% of landlords are represented by an attorney. This causes a significant resource and power imbalance in lawful detainer cases. This results in tenants often waiving defenses or their rights and unnecessarily losing their housing.

The number of anticipated tenants facing post-COVID-19 evictions will no doubt increase and requires a corollary increase in resources available to renters to defend against these evictions.

The Eviction Prevention and Defense program complements the services that Bet Tzedek has long been offering West Hollywood tenants. It expands on these services by mandating full-scope legal representation whenever a tenant is facing eviction. “Facing eviction” means not only when the legal process for an eviction has been initiated, such as with a notice to pay/cure or quit, but also when a landlord has threatened to initiate that process. Representation would be undertaken at the first indication that a landlord is pursuing an eviction.

Since this program was initiated in July 2020, Bet Tzedek has hired a staff attorney experienced in landlord/tenant law and unlawful detainers’ defense to handle eviction defense for West Hollywood tenants. Bet Tzedek has also set up virtual clinics three days per week where tenants can speak to an attorney about their needs. Tenants access these services through an online portal where they can create an appointment. This portal is also available to City of West Hollywood staff who can create an appointment for a tenant who has contacted City staff. This ability for City staff to link the tenant directly to Bet Tzedek legal services will reduce the number of calls the tenant must make and will otherwise prevent tenants from slipping through the cracks. In addition, Bet Tzedek has set up a dedicated phone line for West Hollywood residents as well as an e-mail address to access services.

Legal services will continue to be offered at the earliest possible stage to prevent a landlord-tenant conflict from escalating to a court filing. Through early intervention, conflicts can be addressed sooner and ideally resolved without formal proceedings,
thereby preventing possible displacement. If the conflict cannot be resolved, Bet Tzedek will then provide eviction defense services through a formal retainer agreement. Keeping people in their homes is necessary to comply with safer-at-home orders and prevent community transmission of COVID-19. It is paramount to the City’s collective efforts to prevent homelessness and allow community members to age safely in community.

Since the program’s initiation, 13 new cases have been opened. The initial funding for the program provided for a supplemental legal services organization in the event that the need outweighed capacity so that no tenant would be denied services. Because the judicial council continued its suspension of eviction cases, those services were not utilized at that time, the City will invoice for the unspent funds.

The City will continue to monitor the program to ascertain capacity as evictions resume in the courts.

**Program administration**

Legal services will be provided at no cost to individuals who reside in the City of West Hollywood. Furthermore, services would be provided regardless of immigration status and be accessible to tenants with physical disabilities and tenants who speak a language other than English.

These services would be provided by Bet Tzedek based on staff capacity and a subcontracting "back-up" legal services organization. The back-up legal services provider will provide legal services and representation for any conflicts or capacity issues that may arise.

The City of West Hollywood would refer matters via a dedicated phone line and/or email address, depending on the prospective client’s preference. Bet Tzedek would conduct an intake to evaluate the case, as well as staff capacity to provide assistance.

**CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:**

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:
- PSG-2: Affordable Housing.
- OSP-5: Support People through Social Services.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:
- HS-1: Maintain and pursue humane social policies and social services that address the needs of the community.
- H-6: Promote equal access to housing for all.

**EVALUATION PROCESSES:**

Data collection is critical to evaluating the effectiveness of the program and identifying
any needed improvements. At the end of the six-month contract term, staff will evaluate how many residents were served and whether the demand for services was met with the current capacity. Staff will also evaluate the status of eviction actions in the courts and whether those actions are being processed, as well as the status of the state of emergency locally and statewide. Staff will present recommendations for the continuation of the program to the City Council at its second meeting in February.

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:
Preventing displacement of residents is imperative to reduce the spread of COVID-19 and maintain stable housing to comply with the state’s stay-at-home order. Because of the affordable housing crisis, displacement could result in homelessness, which also exacerbates the current impacts of the pandemic. Housing retention not only improves public health outcomes but also eliminates the environmental impacts of forcing residents to move far from work, friends, family and other support networks to secure affordable housing. Maintaining the city’s affordable housing stock and keeping our residents in their homes is a critical component to meeting sustainability and health outcomes.

COMMUNITY ENGAGEMENT:
Based on the presentation of a right-to-counsel initiative to the Rent Stabilization Commission in February, the Commission is supportive of efforts to increase legal representation to tenants facing eviction.

OFFICE OF PRIMARY RESPONSIBILITY:
HUMAN SERVICES & RENT STABILIZATION DEPARTMENT / SOCIAL SERVICES DIVISION with support from the Legal Services Division.

FISCAL IMPACT:

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### General Fund Supplemental Appropriations
#### Fiscal Year 2020-21

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<td>7/20/2020</td>
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#### Proposed Supplemental Expenditures

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<td><strong>Total Proposed Supplemental Expenditures</strong></td>
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**Appropriations Surplus/(Deficit) as Proposed**  
$ (1,082,115)

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**ATTACHMENT:**

Attachment A – Amendment No. 4: Agreement for Services between the City and Bet Tzedek Legal Services