



## EXECUTIVE SUMMARY

### HOUSING COMMISSION EXECUTIVE SUMMARY SHEET

MEETING DATE: November 12, 2021

HCR21-110

**SUBJECT:** Approval of a Memorandum of Understanding between the San Diego Housing Commission (Housing Commission) and the City of San Diego for the Administration and Oversight of the City of San Diego Eviction Prevention Program (Program) and Approval of a Contract between the Housing Commission and Legal Aid Society of San Diego to Operate the Program

**COUNCIL DISTRICT(S):** Citywide

**ORIGINATING DEPARTMENT:** Compliance and Equity Assurance Department

**CONTACT/PHONE NUMBER:** Debra Fischle-Faulk (619) 578-7411

**REQUESTED ACTION:**

Approve a Memorandum of Understanding between the San Diego Housing Commission (Housing Commission) and the City of San Diego for the administration and oversight of the City of San Diego Eviction Prevention Program (Program), and approve an operating agreement with Legal Aid Society of San Diego for an initial seven-month term in an amount not to exceed \$1,842,105 for the period of December 1, 2021, through June 30, 2022, with a one-year option for renewal in an amount not to exceed \$3,157,895 for the period of July 1, 2022, through June 30, 2023, for a total contract amount not to exceed \$5,000,000 for 19 months for the operation of the Program.

**EXECUTIVE SUMMARY OF KEY FACTORS:**

- With the expiration of the state eviction moratorium and changes to statewide eviction protections, the Housing Commission, on behalf of the City of San Diego, released a Request for Qualifications (RFQ) September 20, 2021, to legal service providers, knowledgeable and experienced in providing eviction prevention services, to administer an Eviction Prevention Program (Program).
- The Program will function as a centralized resource for low-income renters facing eviction and is intended to help address a potential increase in evictions and/or confusion about eviction protections due to the expiration of the state moratorium.
- The Program will include Education & Public Awareness and Emergency Legal Assistance.
- The Housing Commission received one response to the RFQ. Legal Aid Society of San Diego's (LASSD) response was determined to be responsible and responsive.
- An evaluation committee evaluated and scored the response. LASSD was determined to be highly qualified and capable of performing the services.
- LASSD also intends to finalize a subcontract with the University of San Diego Law School Legal Clinics to assist with additional referrals if necessary. All services for the Program will be provided to all eligible households regardless of immigration status.
- On October 5, 2021, the Housing Authority of the City of San Diego and the San Diego City Council authorized \$5 million in federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Community Development Block Grant (CDBG-CV) funds, awarded to the City of San Diego, to fund the Eviction Prevention Program.



## REPORT

**DATE ISSUED:** November 4, 2021

**REPORT NO:** HCR21-110

**ATTENTION:** Chair and Members of the San Diego Housing Commission  
For the Agenda of November 12, 2021

**SUBJECT:** Approval of a Memorandum of Understanding between the San Diego Housing Commission (Housing Commission) and the City of San Diego for the Administration and Oversight of the City of San Diego Eviction Prevention Program (Program) and Approval of a Contract between the Housing Commission and Legal Aid Society of San Diego to Operate the Program

**COUNCIL DISTRICT:** Citywide

### **REQUESTED ACTION**

Approve a Memorandum of Understanding between the San Diego Housing Commission (Housing Commission) and the City of San Diego for the administration and oversight of the City of San Diego Eviction Prevention Program (Program), and approve an operating agreement with Legal Aid Society of San Diego for an initial seven-month term in an amount not to exceed \$1,842,105 for the period of December 1, 2021, through June 30, 2022, with a one-year option for renewal in an amount not to exceed \$3,157,895 for the period of July 1, 2022, through June 30, 2023, for a total contract amount not to exceed \$5,000,000 for 19 months for the operation of the Program.

### **STAFF RECOMMENDATION**

That the San Diego Housing Commission (Housing Commission) recommend that the Housing Authority of the City of San Diego (Housing Authority) and San Diego City Council (City Council) take the following actions:

#### **Housing Authority:**

- 1) Authorize the San Diego Housing Commission (Housing Commission) to execute a Memorandum of Understanding (MOU) between the Housing Commission and the City of San Diego for the Housing Commission to oversee and administer the City of San Diego Eviction Protection Program (Program) with Coronavirus Aid, Relief, and Economic Security (CARES) Act Community Development Block Grant (CDBG-CV) funds allocated to the City of San Diego to address the COVID-19 pandemic;
- 2) Approve an operating agreement with Legal Aid Society of San Diego (LASSD) for an initial seven-month term in an amount not to exceed \$1,842,105 for the period of December 1, 2021, through June 30, 2022, with a one-year option for renewal in an amount not to exceed \$3,157,895 for the period of July 1, 2022, through June 30, 2023, for a total contract amount not to exceed \$5,000,000 for 19 months for the operation of the Program;

November 4, 2021

Approval of a Memorandum of Understanding and an Agreement for the Operations of the City of San Diego Eviction Prevention Program

Page 2

- 3) Authorize the Housing Commission's President & CEO, or designee to modify the Eviction Prevention Program, if necessary, without further action by the Housing Commission's Board of Commissioners (Board) or the Housing Authority, but only if and to the extent that such changes comply with the terms of the executed MOU and are necessary to fulfill CDBG-CV funding requirements.
- 4) Authorize the Housing Commission's President & CEO, or designee, to substitute approved funding sources with any available funds as deemed appropriate, contingent upon budget availability, and further authorize the President & CEO, or designee, to take such actions as are necessary, convenient and/or appropriate to implement this approval and delegation of authority by the Housing Commission upon advice of the General Counsel; and
- 5) Authorize the Housing Commission's President & CEO, or designee, to execute all necessary documents and instruments that are necessary and/or appropriate to implement these approvals, in a form and format approved by General Counsel, and to take such actions necessary and/or appropriate to implement these approvals.

**City Council:**

Authorize the City of San Diego (City) to execute a Memorandum of Understanding between the Housing Commission and the City for the Housing Commission to oversee and administer the Program with CDBG-CV funds allocated to the City to address the COVID-19 pandemic.

**SUMMARY**

In 2020, eviction moratoria were rapidly deployed at multiple levels of government in response to the state of emergency due to the COVID-19 pandemic. A statewide moratorium expired September 30, 2021, with new eviction protections created by state Assembly Bill (AB) 832, beginning October 1, 2021. It includes the following protections:

- Tenants generally are protected from eviction for nonpayment of rent due between March 1, 2020, and September 30, 2021, if that nonpayment is the result of a hardship related to the COVID-19 pandemic and the tenant has paid any required portion of the rent.
- Tenants cannot be evicted for unpaid rent accrued March 1, 2020, through August 31, 2020. Unpaid rent during this period converts to consumer debt.
- Tenants are required to pay at least 25 percent of the rent they owe during the period September 1, 2020, through September 30, 2021.
- Landlords are required to provide a notice to tenants who, as of July 1, 2021, have not paid one or more months of rent during this time period.
- Tenants are required to provide their landlord a Declaration of COVID-19-related financial distress within 15 days of receiving notice from their landlord.
- Beginning November 1, 2021, for the Superior Court to process an Unlawful Detainer action (eviction) for unpaid rent accrued during the period October 1, 2021, through March 31, 2022, the landlord must provide:
  1. Proof that an application for emergency rental assistance was submitted and denied, or
  2. That an application was submitted and after 20 days there was no notification received that the tenant completed their portion of the application, and the tenant has not otherwise informed the landlord of a submitted application.

- If an eviction is court-approved, but the Sheriff has not yet initiated a lock-out, tenants may still submit to the court proof of rental assistance approval, and the court will determine within 5-10 days whether the rent can be paid and the eviction be avoided.
- Local ordinances may take effect April 1, 2022.
- Tenants may still be evicted for “just cause” throughout this time period, such as tenant lease violations, tenant criminal activity, or the owner withdrawing the property from the rental market.

With the expiration of the state moratorium and changes to statewide eviction protections, the Housing Commission, on behalf of the City of San Diego, released a Request for Qualifications (RFQ) September 20, 2021, to legal service providers, knowledgeable and experienced in providing eviction prevention services, to administer an Eviction Prevention Program (Program).

The Program will function as a centralized resource for low-income renters facing eviction and is intended to help address a potential increase in evictions and/or confusion about eviction protections due to the expiration of the state moratorium. The Program includes:

- Education & Public Awareness
  - a) Education – increasing community capacity for eviction prevention by providing training and technical assistance related to tenants’ rights and eviction protections to:
    - Low-income tenants
    - Staff of Community Based Organizations serving low-income tenants
    - Landlords with low-income tenants – especially small operatorsServices would include:
    - Regular and ongoing public workshops
    - Targeted training as necessary
    - Published materials/guides
    - A hotline for the Program
    - A webpage for the Program
  - b) Public Awareness – conducting a multilingual media campaign and hosting community events to increase public awareness of tenants’ rights, eviction protections and the services available under the Program
- Emergency Legal Assistance
  - a) Full legal representation available to eligible low-income tenants residing in the City of San Diego who have been issued an Unlawful Detainer notice and experienced a reduction of income or other financial hardship due to the COVID-19 pandemic. Legal services attorneys will represent eligible tenants throughout the pre-eviction and eviction process, in settlement negotiations and through trial, if necessary.
  - b) Limited legal services to low-income communities via clinics, hotlines or appointments (either virtual or in person). The limited services include assistance completing COVID-19 related declarations, submitting formal responses to eviction notices, formal responses to Unlawful Detainers and requests for reasonable accommodations.

November 4, 2021

Approval of a Memorandum of Understanding and an Agreement for the Operations of the City of San Diego Eviction Prevention Program

Page 4

The RFQ was posted and made available for download on the Housing Commission's and the City of San Diego's PlanetBids electronic bidding portals. A total of 646 vendors were notified through the PlanetBids systems.

At the RFQ closing date of October 4, 2021, one response was received—from LASSD. Subsequent to the RFQ closing, a responsible and responsiveness review was conducted. LASSD's response was determined to be responsible and responsive.

An evaluation committee evaluated and scored the response submitted based on the following criteria: Respondent's Profile; Capacity and Readiness; Qualifications, Experience and Interest; and Equity Assurance. After review, LASSD's Statement of Qualifications received an "Outstanding" overall rating. As a result of this determination, the evaluation committee conducted negotiations and discussions with LASSD on October 21, 2021, regarding its approach to the provision of services through the Program. LASSD was determined to be highly qualified and capable of performing the services.

LASSD has been providing housing and eviction prevention assistance to low-income residents in both the City and County of San Diego for more than 60 years. Their two offices in the City of San Diego are located at 110 S. Euclid Avenue (Promise Zone), their headquarters, and 1764 San Diego Avenue (Midtown). They have a comprehensive and multifaceted approach to eviction prevention services that includes: staffing a toll-free hotline with both English- and Spanish-language options, providing direct legal services ranging from counsel and advice to full scope representation, offering holistic case management services, providing *pro se* clinic assistance at the County of San Diego Hall of Justice in downtown San Diego, and engaging in outreach and education campaigns. LASSD also assists tenants who have received eviction notices and unlawful detainers, who experience conflicts with their landlords, who encounter habitability issues with their residence, or who have questions about their rental agreements and leases. LASSD is a member of the San Diego Eviction Defense Collaborative and will subcontract to fellow collaborative members City Heights Community Development Corporation (CHCDC) and ACCE Institute (ACCE) to assist with providing education and public awareness services. Both organizations are actively conducting outreach and education campaigns for eviction prevention and will help LASSD leverage resources to reach a greater number of tenants, landlords and service providers in the local community to ensure the Program's success.

LASSD also intends to finalize a subcontract with the University of San Diego Law School Legal Clinics to assist with additional referrals if necessary. All services for the Program will be provided to all eligible households regardless of immigration status.

As this is a new Program, preliminary goals have been established based on LASSD's outcomes on the initial eight-month grant period of their County of San Diego's Eviction Prevention Grant. Goals may be adjusted as deemed appropriate by the contract administrator to ensure ongoing alignment with the intention of the programs design and target population. Staff is proposing the following for the initial seven-month period:

- Conduct a minimum of three education and outreach events per month and at least one large citywide media outreach effort; and
- Take the necessary staffing measures to ensure all eligible households requesting assistance are responded to and assisted promptly.

LASSD will provide monthly reports that include but may not be limited to:

- Number of low-income eligible tenants assisted, including demographic data, as required for the use of CDBG funds;
- Number of referrals made to other community resources, categorized by type of resource;
- Number of public workshops conducted, including attendance at each;
- Number of targeted trainings conducted and attendance at each;
- Number of hotline calls received and responded to;
- Number of public awareness events conducted;
- Number of eligible low-income tenants receiving full legal assistance and brief summary of assistance provided;
- Number of eligible low-income tenants receiving limited legal services and brief summary of assistance provided; and
- Any additional services provided to eligible low-income tenants.

In addition, they will provide all programmatic and financial reports required by and in accordance with CDBG-CV regulations.

If the actions proposed in this report are approved, the Housing Commission will award a contract to LASSD to implement and administer the Program pursuant to the proposed MOU between the Housing Commission and the City of San Diego and CDBG-CV regulatory requirements. LASSD is currently providing similar eviction prevention services to the County of San Diego and indicated they could begin providing services immediately after final contract execution.

### **AFFORDABLE HOUSING IMPACT**

With the authorization to expend up to \$5,000,000 in federal CDBG-CV funds allocated to the City of San Diego, the Program will function as a centralized resource for low-income renters facing eviction. This program will help prevent displacement of tenants with low-income by addressing a potential increase in evictions due to the expiration of the state's temporary eviction moratorium and confusion over the new protections under state law.

### **EQUAL OPPORTUNITY/CONTRACTING/EQUITY ASSURANCE**

LASSD is a nonprofit corporation. As a nonprofit, LASSD is exempt from the requirement to submit a Workforce Report. The Housing Commission included a requirement in the RFQ for prospective firms to include a description of their experience and commitment to equity. LASSD is committed to equity and inclusion as both an employer and a service provider. Last year, LASSD held in-depth, interactive training for all of their staff on implicit bias. This year they are forming a Race and Equity Committee composed of staff at all levels to promote equity and inclusion in their organization and guide their work in the community.

### **FISCAL CONSIDERATIONS**

The funding proposed by this action was included in the Housing Commission's Housing Authority-approved Fiscal Year 2022 Budget. Approving this action will authorize the Housing Commission to expend up to \$5,000,000 of federal CDBG-CV funds allocated to the City of San Diego to oversee and administer the City of San Diego Eviction Prevention Program

November 4, 2021

Approval of a Memorandum of Understanding and an Agreement for the Operations of the City of San Diego Eviction Prevention Program

Page 6

**Funding Sources**

CDBG-CV	\$5,000,000
Total:	\$5,000,000

**Funding Uses**

Program Expenses	\$4,600,000
Program Administration	\$ 400,000
Total:	\$5,000,000

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION**

On October 13, 2020, the San Diego City Council unanimously approved the allocation of \$5,000,000 in Coronavirus Aid, Relief, and Economic Security (CARES) Act Community Development Block Grant (CDBG-CV) funds to support the City of San Diego COVID-19 Emergency Rental Assistance Program (Resolution No. R-313256).

On December 8, 2020, due to technical difficulties, the San Diego City Council and the Housing Authority continued to December 15, 2020, a report requesting authorization to execute an amended MOU between the Housing Commission and the City of San Diego to continue the oversight and administration of the City's COVID-19 Emergency Rental Assistance Program and to take related actions.

On December 15, 2020, the San Diego City Council and the Housing Authority returned to staff a report requesting authorization to execute an amended MOU between the Housing Commission and the City of San Diego (City) to continue the oversight and administration of the City's COVID-19 Emergency Rental Assistance Program and to take related actions.

On February 22, 2021, the San Diego City Council (Agenda Item No. 603; Resolution No. 313439) and Housing Authority (Report No. HAR21-010; Resolution No. HA-1900) authorized the City of San Diego COVID-19 Housing Stability Assistance Program (HSAP), which the Housing Commission administers, to provide emergency rental assistance and/or utility assistance to households with low income experiencing financial hardship due to the ongoing COVID-19 pandemic.

On March 12, 2021, the San Diego City Council and San Diego Housing Commission entered into a Memorandum of Understanding (MOU) for the Housing Commission to administer HSAP and abide by federal and state requirements as authorized by Resolution R-313439 and Resolution HA-1900.

On July 27, 2021, the City Council (Agenda Item No. 331, Resolution No. R-2022-15) and the Housing Authority (Report No. HAR21-015; Resolution No. HA-1921) authorized up to \$60,149,903.87 in additional funds for HSAP.

On October 5, 2021, the Housing Authority authorized the San Diego Housing Commission to amend the Housing Commission's Fiscal Year 2022 budget for not-to-exceed \$39,712,779 in ARPA funds allocated by the State of California for the City of San Diego to be administered by the Housing Commission for HSAP and remove \$5,000,000 in federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Community Development Block Grant (CDBG-CV) funds, awarded to the City

November 4, 2021

Approval of a Memorandum of Understanding and an Agreement for the Operations of the City of San Diego Eviction Prevention Program

Page 7

of San Diego and previously allocated to the Housing Commission for HSAP, to the City's CDBG unobligated fund for a future eviction prevention activity (Resolution No. HA-1923).

### **KEY STAKEHOLDERS and PROJECTED IMPACTS**

Stakeholders for this project include low-income households in the City of San Diego facing potential eviction, eviction proceedings, and rental agreement and lease issues due to the COVID-19 pandemic, as well as the City of San Diego and the Housing Commission. This action is expected to have a positive impact on the community by providing education, awareness and emergency legal assistance to low-income tenants in the City of San Diego to help prevent housing displacement.

### **ENVIRONMENTAL REVIEW**

The proposed actions contained within the report are not a project as defined in California Environmental Quality Act (CEQA) Section 15378(b)(5) as they are administrative activities of government that will not result in direct or indirect physical changes to the environment and, therefore are not subject to CEQA pursuant to Section 15060(c)(3) of the State CEQA Guidelines. In addition, to the extent that the proposed actions are determined to be a project, they would be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (Common Sense) which states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The Common Sense Exemption is applicable where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The actions would not, on their own accord, cause a significant effect on the environment.

Federal funds constitute a portion of the funding for the project. The parties agree that the provision of any federal funds to the project is conditioned on the City of San Diego's determination to proceed with, modify or cancel the project based on the results of subsequent environmental review under NEPA. Final NEPA approval from the City of San Diego was obtained on July 9, 2021.

Respectfully submitted,

*Debra Fischle-Faulk*

Debra Fischle-Faulk  
Senior Vice President  
Compliance & Equity Assurance  
San Diego Housing Commission

Approved by,

*Jeff Davis*

Jeff Davis  
Deputy Chief Executive Officer  
San Diego Housing Commission

Docket materials are available in the "Governance & Legislative Affairs" section of the San Diego Housing Commission website at [www.sdhc.org](http://www.sdhc.org).