



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

March 18, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1507I-1486

Nuisance Property: 45800 Rubidoux
Indio, California 92201
APN 611-110-039-2

Cost Recovery Amount: \$9,956.85

Hearing Request Deadline: April 2, 2016 (15 days)

Payment Deadline: May 2, 2016 (45 days)

Interested Parties:

Katherine E. Dagermangy, as trustee of
the Trust identified in the Estate of
Florence A. Keck, Case No. Indio P6920
300 South Palm Canyon Drive
Palm Springs, California 92262

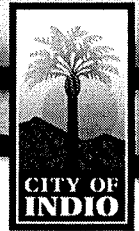
Irene Schmerl, as trustee of the Trust
identified in the Estate of Florence A.
Keck, Case No. Indio P6920
300 South Palm Canyon Drive
Palm Springs, California 92262

Katherine E. Dagermangy, as trustee of
the Trust identified in the Estate of
Florence A. Keck, Case No. Indio P6920
1550 Camino Lindo
South Pasadena, California 91030

John Wessman
Wessman Holdings
555 South Sunrise Way, Suite 200
Palm Springs, California 92264

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.



The City's unpaid Enforcement Costs in this matter total \$9,956.85 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$2,359.80
2. Administrative Costs: \$1,759.55
3. Prosecution Fees: \$5,837.50
4. **Total: \$9,956.85**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "City of Indio" and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to the Code Enforcement Division of the Indio Police Department at 46800 Jackson Street, Indio, California 92201, or by calling 760-391-4123.

Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: May 18, 2016

IPD Case Number: 1506I-4867

Nuisance Property: 45800 Rubidoux, Indio, California 92201
APN 611-11-039-2

Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of The City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Property. This Memorandum is supported by the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurred for holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

This case involves a large parcel of real property that once contained a grocery store and several attached storefronts. On May 7, 2015, transients started a fire inside the abandoned grocery store on the Nuisance Property. This fire quickly spread throughout the Nuisance Property, resulting in severe fire damage that created severe health and safety hazards for the public. City inspectors conducted an inspection of the Nuisance Property on November 10, 2015 and discovered numerous violations of State and local laws that led the City to pursue a nuisance abatement action.

Following the inspection, the City issued a Legal Notice and Order to Repair or Abate ("N&O") on January 21, 2016, which required all interested parties to cure all of the nuisance conditions on the Nuisance Property within 30 days. Wessman Holdings, LLC currently leases the Nuisance Property and began working with the City to cure the violations on the Nuisance Property. Ultimately, Wessman Holdings, LLC obtained a demolition permit and demolished the structure on the Nuisance Property.



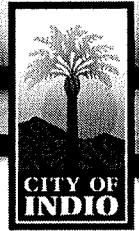
Now that the violations on the Nuisance Property have been cured, the City initiated cost recovery proceedings in order to recover the costs the City incurred initiating this nuisance abatement action. On March 18, 2016, the City issued a Cost Recovery Invoice in the amount of \$9,956.85, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Property. Wessman Holdings, LLC timely requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. The City requests that Hearing Officer James Butzbach (“Hearing Officer”) find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Property as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it has incurred in preparing for and holding this Cost Recovery Hearing.

III. LEGAL ANALYSIS

A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

IMC section 10.20 states that the City is “entitled to recover its costs related to enforcing any code violation or nuisance abatement.” Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions. IMC section 10.23 is part of that procedure established by the City. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties for the nuisance conditions or code violations. This invoice must also be sent to entities with a recorded interest in the property where the nuisance conditions or code violations were located. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services (including litigation costs, court costs, and attorneys’ fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23.

Here, the City has the authority to recover its costs that it incurred in abating the nuisance conditions on the Nuisance Property. The City discovered numerous nuisance conditions and IMC violations on the Nuisance Property. In order to cure the hazardous conditions on the Nuisance Property, the City began initiating a receivership action. The City incurred \$9,956.85 in Costs to compel Wessman Holdings, LLC to abate the nuisance conditions on the Nuisance Property. As required by the IMC, the City issued an invoice to all interested parties, including Wessman Holdings, LLC, who were liable for the Costs. The amount on the Cost Recovery Invoice is the total of the City staff costs and the City’s attorneys’ fees incurred in the nuisance abatement action and they are fully recoverable under IMC section 10.20. The City has followed all of the procedures required by the IMC to recover its Costs in this matter. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.



B. The City Has The Authority To Recover Its Costs Incurred For This Hearing

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F), the cost of the hearing will also be a liability of the non-prevailing party at the cost recovery hearing.

Here, the City is entitled to recover the Costs it incurred in preparing for and holding this cost recovery hearing because the City is entitled to recover its full Costs in abating the nuisance conditions on the Nuisance Property. As discussed above, the City has complied with all of the requirements to recover its Costs as outlined in IMC section 10.23 and, therefore, has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a cost recovery hearing is liable for the costs of the hearing as well. In preparing for and holding this hearing, the City has incurred an additional \$1,435.00 plus Hearing Officer fees in Costs. These Costs include the fee for the Hearing Officer and attorneys' fees. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and, therefore, is entitled to recover the full costs of the cost recovery hearing as well.

IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$9,956.85 should be confirmed and Wessman Holdings, LLC must pay this amount as well as the costs incurred by the City in preparing for and holding this cost recovery hearing which amount to \$1,435.00 plus Hearing Officer fees. Thus Wessman Holdings, LLC must be ordered to pay a total of \$11,391.85 plus Hearing Officer fees.

Attachments: 1. IMC Sections 10.20–10.24
2. City Staff Invoice
3. Silver & Wright LLP Invoice
4. Cost Recovery Invoice



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

April 4, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1509I-3607

Nuisance Property: APN 616-120-054

Cost Recovery Amount: \$4,660.04

Hearing Request Deadline: April 19, 2016 (15 days)

Payment Deadline: May 19, 2016 (45 days)

Interested Parties:

Coachella Medical Center, LLC
200 East Beverly Boulevard, Suite 200
Montebello, California 90640

Linkage Financial Group Inc.
12368 East Valley Boulevard, Suite 117
El Monte, California 91732

C T Corporation System
Agent for Lawyers Title Company
818 West Seventh Street, Suite 930
Los Angeles, California 90017

Investors Title Company
7530 North Glenoaks Boulevard
Burbank, California 91504

Hedy Z. Eckles
234 East Colorado Boulevard, Suite 720
Pasadena, California 91101

Kuanyu Chen
234 East Colorado Boulevard, Suite 720
Pasadena, California 91101

Albert A. Webb Associates
c/o Karpeles & Associates
8383 Wilshire Boulevard, Suite 346
Beverly Hills, California 90211

Willard J. Novodor
200 East Beverly Boulevard, Suite 200
Montebello, California 90604

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees



("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$4,660.04 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$920.00
2. Administrative Costs: \$815.24
3. Prosecution Fees: \$2,924.80
4. **Total: \$4,660.04**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to the Code Enforcement Division of the Indio Police Department at 46800 Jackson Street, Indio, California 92201, or by calling 760-391-4123.

Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: July 26, 2016

IPD Case Number: 1509I-3607
Nuisance Property: APN 616-120-054

Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of The City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Property. This Memorandum is supported by the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurred for holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

On July 28, 2015, Code Enforcement Officer Greg Eastman ("Officer Eastman") received a call regarding a transient camp on the Nuisance Property. (Declaration of Attorney James McKinnon, "McKinnon Decl.", ¶ 3.) Officer Eastman responded to the call and observed the transient camp, overgrown weeds and vegetation, and junk, trash, and debris throughout the Nuisance Property. (McKinnon Decl., ¶ 3.) After this inspection, Officer Eastman researched property title information for Nuisance Property and discovered that Coachella Medical Center, LLC ("Requestor") owned the Nuisance Property. (McKinnon Decl., ¶ 3.) He subsequently issued an administrative citation to Requestor. (McKinnon Decl., ¶ 3.)

On August 24, 2015, Code Enforcement Officer Sabrina Soltis ("Officer Soltis") inspected the Nuisance Property and observed overgrown weeds and vegetation and an accumulation of junk, trash, and debris throughout the Nuisance Property. (McKinnon Decl., ¶ 4.) After this inspection, Officer Soltis issued another administrative citation to the Requestor for the violations observed on the Nuisance Property. (McKinnon Decl., ¶ 4.)



On September 22, 2015, Officer Soltis reinspected the Nuisance Property and observed the same violations as she had observed during her August 24, 2015 inspection. (McKinnon Decl., ¶ 5.) Due to the continuing violations on Nuisance Property, Officer Soltis sent this case to the City Prosecutor for criminal prosecution. (McKinnon Decl., ¶ 5.)

On December 4, 2015, the Indio City Prosecutor filed criminal charges against Requestor for maintaining the Nuisance Property in violation of IMC Section 95A.104(k)(10) and 95A.104(M)(1). (McKinnon Decl., ¶ 5.) The case ultimately resulted in Requestor's conviction on both counts and the Requestor was ordered to pay a \$100 fine for each count. (McKinnon Decl., ¶ 9.)

Now that the violations on the Nuisance Property have been cured, the City initiated cost recovery proceedings in order to recover the Costs the City incurred initiating the nuisance abatement and code enforcement action. On April 4, 2016, the City issued a Cost Recovery Invoice in the amount of \$4,660.04, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Property. (McKinnon Decl., ¶ 11.) Requestor, timely requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. (McKinnon Decl., ¶ 11.) The City requests that Hearing Officer James Butzbach ("Hearing Officer") find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Property as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing.

III. LEGAL ANALYSIS

A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

IMC section 10.20 states that the City is "entitled to recover its costs related to enforcing any code violation or nuisance abatement." Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions. IMC section 10.23 is part of that procedure established by the City. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties for the nuisance conditions or code violations. This invoice must also be sent to entities with a recorded interest in the property where the nuisance conditions or code violations were located. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services (including litigation costs, court costs, and attorneys' fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23.

Here, the City has the authority to recover its costs that it incurred in abating the IMC violations on the Nuisance Property as a personal obligation of Requestor. The City discovered IMC violations on the Nuisance Property and instituted a criminal action against Requestor, who



at the time owned the Nuisance Property, in order to compel Requestor to bring the Nuisance Property into compliance. Requestor's ownership of the Nuisance Property at the time and Requestor's exercise of control over the Nuisance Property by abating the nuisance conditions and IMC violations on the Nuisance Property demonstrate Requestor's responsibility for these unlawful conditions. Therefore, Requestor is personally responsible for the City's Costs incurred in this nuisance abatement action. Furthermore, Requestor pled guilty to both counts in the criminal case and this solidifies Requestor's responsibility for the nuisance conditions and IMC violations on the Nuisance Property.

The City incurred \$4,660.04 in Costs to compel Requestor to abate the IMC violations on the Nuisance Property and to enforce the provisions of the IMC. As required by the IMC, the City issued an invoice to Requestor who owned the Nuisance Property at the time and who exercised control over the Nuisance Property by abating the nuisance conditions and IMC violations thereon. The amount on the Cost Recovery Invoice is the total of the City staff costs and the City's attorneys' fees and costs incurred in the nuisance abatement action and they are fully recoverable under IMC section 10.20. The City has followed all of the procedures required by the IMC to recover its Costs in this matter. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.

B. The City Has The Authority To Recover Its Costs Incurred For The Hearing To Contest The City's Cost Recovery Proceedings

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F), the cost of the hearing will also be a liability of the non-prevailing party at the cost recovery hearing.

Here, the City is entitled to recover the Costs it incurred in preparing for and holding this cost recovery hearing because the City is entitled to recover its full Costs in abating the nuisance conditions on the Nuisance Property and enforcing the IMC. As discussed above, the City has complied with all of the requirements to recover its Costs as outlined in IMC section 10.23 and, therefore, has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a cost recovery hearing is liable for the costs of the hearing as well. In preparing for and holding this hearing, the City has incurred an additional \$4,571.43 plus Hearing Officer fees in Costs. These Costs include the fees for the Hearing Officer and attorneys' fees and costs in preparing for all of the necessary documents in support of the City's right to cost recovery for the cost recovery hearing, researching municipal and State laws, and attending the cost recovery hearings. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and, therefore, is entitled to recover the full costs of the cost recovery hearing as well.



IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$4,660.04 should be confirmed and Requestor must pay this amount as well as the costs incurred by the City in preparing for and holding this cost recovery hearing which amount to \$4,571.43 plus Hearing Officer fees. Thus Requestor must be ordered to pay a total of \$9,231.47 plus Hearing Officer fees.

Attachments: 1. IMC Sections 10.20–10.24.
2. Declaration of Attorney James McKinnon in Support of City's Cost Recovery Rights.



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

September 12, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1508I-2838

Nuisance Property: APN 600-130-022-8

Cost Recovery Amount: \$4,411.63

Hearing Request Deadline: September 27, 2016 (15 days)

Payment Deadline: October 27, 2016 (45 days)

Interested Parties:

Jae Soon Park
Agent for Dops LLC
28928 Mirada Circulo
Valencia, California 91354

Richard A. Smith
Agent for National Covenant Disbursements, LLC
25 Old Route 37
New Fairfield, Connecticut 06812

Morris Platt and Arthur Platt
P.O. Box 1360
Rancho Mirage, California 92270

Joe A. Morton
Agent for Commerce Title Company
3600 Wilshire Boulevard, Fifth Floor
Los Angeles, California 90010

Thomas E. Lindstrom
Agent for Polo Square Partners, LLC
79020 Citrus
La Quinta, California 92253

C T Corporation System
Agent for Commonwealth Land Title Company
818 West Seventh Street, Suite 930
Los Angeles, California 90017

Kwang Soo Lee
Agent for National Agricultural Cooperative Federation, as Trustee for Daol New Leader Palm Spring Real Estate Fund 8-4
17785 Center Court Drive, Suite 360
Cerritos, California 90703

C T Corporation System
Agent for RBF Consulting
818 West Seventh Street, Suite 930
Los Angeles, California 90017



Carl McLarand
Agent for MVE Studio, Inc.
1900 Main Street, Eighth Floor
Irvine, California 92614

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$4,411.63 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$506.00
2. Administrative Costs: \$632.13
3. Prosecution Fees: \$3,273.50
4. **Total: \$4,411.63**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

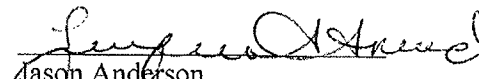
NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your



administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to the Code Enforcement Division of the Indio Police Department at 46800 Jackson Street, Indio, California 92201, or by calling 760-391-4123.


Jason Anderson
Jennifer Stroud
Code Enforcement Supervisor
Indio Police Department



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

April 5, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1502I-1077

Nuisance Property: 82796 Smoke Tree Avenue
Indio, California 92201
APN 610-244-012-4

Cost Recovery Amount: \$1,989.66

Hearing Request Deadline: April 19, 2016 (15 days)

Payment Deadline: May 19, 2016 (45 days)

Interested Parties:

Mr. Juan Gonzales, Jr.
82796 Smoke Tree Avenue
Indio, California 92201

Ms. Rosa Gonzales
82796 Smoke Tree Avenue
Indio, California 92201

Genpact Registered Agent, Inc.
Agent for Mortgage Electronic
Registration Systems, Inc.
15420 Laguna Canyon Road, Suite 100
Irvine, California 92618

M & T Bank
1 M & T Plaza,
Buffalo, New York 14203

Ms. Lisa G. Garcia
Agent for Old Republic Title Company
275 Battery Street, Suite 1500
San Francisco, California 94111

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees



("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$1,989.66 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$322.00
2. Administrative Costs: \$480.56
3. Prosecution Fees: \$1,187.10
4. **Total: \$1,989.66**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to the Code Enforcement Division of the Indio Police Department at 46800 Jackson Street, Indio, California 92201, or by calling 760-391-4123.

Jason Anderson
Code Enforcement Supervisor
Indio Police Department



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

March 30, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1505I-2862

Nuisance Property: APN 692-220-019-5

Cost Recovery Amount: \$4,835.35

Hearing Request Deadline: April 14, 2016 (15 days)

Payment Deadline: May 15, 2016 (45 days)

Interested Parties:

Glyn J. Burge
Agent for Indio Burge, LLC
490 Grand Avenue, Suite 200
Oakland, California 94610

CSC – Lawyers Incorporating Service
Agent for Walgreen Co.
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Rudy Herrera
Agent for Shadow Hills Plaza, LLC
73081 Fred Waring Drive
Palm Desert, California 92260

Brian J. Holcombe
Agent for FirstBank Holding Company
FirstBank, 73-000 Highway 111
Palm Desert, California 92260

CSC – Lawyers Incorporating Service
Agent for First American Title Insurance
Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

C T Corporation System
Agent for Minnesota Life Insurance
Company
818 West Seventh Street, Suite 930
Los Angeles, California 90017

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code (“IMC”) section 10.23, the City of Indio (“City”) hereby seeks to recover its costs, expenses, fines, and fees (“Enforcement Costs”) incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.



The City's unpaid Enforcement Costs in this matter total \$4,835.35 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$552.00
2. Administrative Costs: \$588.15
3. Prosecution Fees: \$3,695.20
4. **Total: \$4,835.35**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City of Indio, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to the Code Enforcement Division of the Indio Police Department at 46800 Jackson Street, Indio, California 92201, or by calling 760-391-4123.

Jason Anderson
Code Enforcement Supervisor
Indio Police Department



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

August 30, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1508I-4651

Nuisance Property: APN 600-230-007-4

Cost Recovery Amount: \$4,221.09

Hearing Request Deadline: September 14, 2016 (15 days)

Payment Deadline: October 14, 2016 (45 days)

Interested Parties:

Mr. Cecil Blackwell
Agent for Investment Development Group
LLC
80415 Weiskopf
La Quinta, California 92253

Investment Development Group LLC
80915 Weiskopf
La Quinta, California 92253

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$4,221.09 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$299.00
2. Administrative Costs: \$668.29
3. Prosecution Fees: \$3,253.80
4. **Total: \$4,221.09**




You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.


Jennifer Stroud
For Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: November 30, 2016

IPD Case Number: 1508I-4651
Nuisance Property: APN 600-230-007-4

Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of The City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Property. This Memorandum is supported by the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurred for holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

On July 15, 2015, City Code Enforcement Officer Sabrina Soltis ("Officer Soltis") inspected the Nuisance Property and observed trash and debris throughout the Nuisance Property. (Declaration of Attorney James McKinnon, "McKinnon Decl.", ¶ 3.) Officer Soltis also observed overgrown and unsightly vegetation throughout the Nuisance Property. (McKinnon Decl., ¶ 3.) After observing these conditions on the Nuisance Property, Officer Soltis researched title and determined that Requestor Investment Development Group LLC ("Requestor") owned the Nuisance Property. (McKinnon Decl., ¶ 3.) Officer Soltis issued Requestor an administrative citation which gave Requestor 15 days to cure the violations on the Nuisance Property. (McKinnon Decl., ¶ 3.) Officer Soltis inspected the Nuisance Property again on August 10, 2015, August 31, 2015, and November 10, 2015. (McKinnon Decl., ¶ 3.) During each of these subsequent inspections, Officer Soltis observed the same violations as those observed during the July 15, 2015 inspection. (McKinnon Decl., ¶ 3.) Officer Soltis forwarded this case to the City Prosecutor for criminal prosecution due to the continuing violations on the Nuisance Property. (McKinnon Decl., ¶ 3.)



On February 9, 2016, Indio Deputy City Prosecutor James McKinnon (“Attorney McKinnon”) appeared at the Arraignment Hearing for Requestor for maintaining the Nuisance Property in violation of IMC sections 95A.104(K)(10) and 95A.104(M)(1). (McKinnon Decl., ¶ 6.) Attorney McKinnon appeared at three more court hearings in order to compel Requestor to bring the Nuisance Property into compliance. (McKinnon Decl., ¶¶ 7–9.) Requestor brought the Nuisance Property into compliance and was ultimately convicted of four counts as Infractions for a total fine of \$400.00 plus penalty assessments. (McKinnon Decl., ¶ 9.)

Now that the violations on the Nuisance Property have been cured, the City initiated cost recovery proceedings in order to recover the City staff costs, expenses, fees, and attorneys’ fees (“Costs”) that the City incurred as a result of the nuisance abatement and code enforcement action. (McKinnon Decl., ¶ 10.) On August 30, 2016, the City issued a Cost Recovery Invoice in the amount of \$4,221.09, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Property. (McKinnon Decl., ¶ 11.)

Requestor requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. (McKinnon Decl., ¶ 12.) The City requests that Hearing Officer James Butzbach (“Hearing Officer”) find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Property as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing.

III. LEGAL ANALYSIS

A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

California Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions, including attorneys’ fees. California Government Code section 38773.5 further provides that cities may specially assess these costs against the parcel of land where the nuisance occurred.

In accordance with California Government Code Section 38773.5, IMC sections 10.20–10.24 outline the City’s cost recovery procedures. Accordingly, IMC section 10.23 is part of that statutorily authorized procedure established by the City. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties for the nuisance conditions or code violations. This invoice must also be sent to entities with a recorded interest in the property where the nuisance conditions or code violations were located. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services (including litigation costs, court costs, and attorneys’ fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23.



Here, the City has the authority to recover Costs incurred in abating the IMC violations on the Nuisance Property because the City followed the procedures outlined in the IMC and the regulations outlined in the California Government Code. The City discovered IMC violations on the Nuisance Property and discovered that Requestor owned the Nuisance Property. As the owner of the Nuisance Property, Requestor has the ultimate responsibility to ensure that the Nuisance Property is maintained in accordance with the provisions of the IMC. After having issued an administrative citation and observing the continued existence of the nuisance conditions and IMC violations, the City instituted a criminal action against Requester in order to cure the IMC violations on the Nuisance Property. The City incurred \$4,221.09 in Costs to compel Requestor to abate the IMC violations on the Nuisance Property and enforce the provisions of the IMC. As required by the IMC, the City issued an invoice to Requestor to recover these Costs. The amount on the Cost Recovery Invoice is the total of the City staff costs, expenses, fees, and the City's attorneys' fees incurred in the nuisance abatement action up to that date and is fully recoverable under IMC section 10.20 and California Government Code section 38773.5. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.

B. The City Has The Authority To Recover Its Costs Incurred For The Hearing To Contest The City's Cost Recovery Proceedings

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F), the prevailing party is entitled to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing from the non-prevailing party. The Costs incurred in preparing for and holding this hearing are also recoverable under the provisions of the IMC as they constitute a part of the nuisance abatement action as it deals directly with the City's abatement, through the criminal process, of the nuisance conditions and IMC violations on the Nuisance Property.

As discussed above, Requestor is liable for the City's Costs incurred in this nuisance abatement action as the owner of the Nuisance Property and as the entity who is ultimately responsible to ensure that the Nuisance Property complies with the provisions of the IMC. Furthermore, the City has complied with all the requirements to recover its Costs as outlined in the relevant sections of the California Government Code and IMC and therefore has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a Cost Recovery Hearing is liable for the costs of the hearing as well. The cost of this hearing is a direct cost and expense arising as a consequence of the nuisances and IMC violations on the Nuisance Property. But for the violations observed on the Nuisance Property, the City would not have incurred the Costs to abate the nuisance conditions and IMC violations on the Nuisance Property.

In preparing for and holding this hearing, the City has incurred an additional \$3,502.89 plus Hearing Officer fees, in Costs. These Costs include Hearing Officer fees, attorneys' fees, and



other administrative expenses preparing for and attending this Cost Recovery Hearing. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and is entitled to recover the full costs of the Cost Recovery Hearing as well.

IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$4,221.09 should be confirmed and Requestor must pay this amount as well as the costs incurred by the City in preparing for and holding this Cost Recovery Hearing which amount to \$3,502.89 plus Hearing Officer fees. Thus, Requestor must be ordered to pay a total of \$7,723.98 plus Hearing Officer fees.

- Attachments:
1. Government Code sections 38771–38775
 2. IMC sections 10.20–10.24
 3. Declaration of Attorney McKinnon in Support of City's Cost Recovery Rights
 4. Hearing Officer Proposed Decision



INDIO POLICE DEPARTMENT

46-800 JACKSON STREET • INDIO, CALIFORNIA 92201
(760) 391-4057 PHONE • (760) 391-4036 FAX

"Our Community ... Our Commitment"

Mike Washburn
Chief of Police

CITY OF INDIO

NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

January 17, 2017

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1510I-4863

Nuisance Property: 80749 Canyon Trail
Indio, California 92201
APN 600-360-063

Cost Recovery Amount: \$2,363.54

Hearing Request Deadline: February 1, 2017 (15 days)

Payment Deadline: March 3, 2017 (45 days)

Interested Parties:

Ms. Tania Jennifer Mirelez
80749 Canyon Trail
Indio, California 92201

J. Breitman
Agent for Hyperion Fund, L.P.
1417 Via Anita
Pacific Palisades, California 90272

C T Corporation System
Agent for JPMorgan Chase Bank
818 West 7th Street, Suite 930
Los Angeles, California 90017

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$2,363.54 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

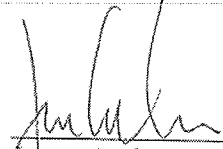
1. Code Enforcement Investigation Costs: \$460.00
2. Administrative Costs: \$583.34
3. Prosecution Fees: \$1,320.20
4. **Total: \$2,363.54**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.



Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: February 3, 2017

IPD Case Number: 1508I-4651
Nuisance Property: 80749 Canyon Trail
Indio, California 92201
APN 600-360-063

Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of The City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Property. This Memorandum is supported by the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurred for holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

On October 29, 2015, City Code Enforcement Officer Brenda Johnson ("Officer Johnson") arrived at the Nuisance Property in response to reports of an IMC violation and observed a Halloween decoration hanging from a City street light pole on the Nuisance Property without the proper encroachment permit. (Declaration of Attorney James McKinnon, "McKinnon Decl.", ¶ 3.) Officer Johnson observed Tania Jennifer Mirelez ("Defendant") removing the Halloween decoration from the City street light pole. (McKinnon Decl., ¶ 3.) Officer Johnson recognized Defendant due to Defendant's commission of similar violations in years past on the Nuisance Property. (McKinnon Decl., ¶ 3.) Officer Johnson researched City records and verified that Defendant had not applied for or obtained any encroachment permit to hang Halloween decorations from the City street light pole. (McKinnon Decl., ¶ 3.) Officer Soltis issued Defendant a Notice to Appear for violating IMC section 97.005(A) and forwarded the case to the City Prosecutor's Office for criminal prosecution. (McKinnon Decl., ¶ 3.)



On December 15, 2015, Indio Deputy City Prosecutor James McKinnon (“Attorney McKinnon”) appeared at the Arraignment Hearing for Requestor for maintaining the Nuisance Property in violation of IMC section 97.005(A). (McKinnon Decl., ¶ 6.) Defendant failed to appear at the initial Arraignment Hearing and the Court issued a Bench Warrant against Defendant. (McKinnon Decl., ¶ 6.) On September 9, 2016, Defendant appeared in Court without noticing the City Prosecutor’s Office and was ultimately convicted of one count as an Infraction and was ordered to pay a fine of \$200.00 plus penalty assessments. (McKinnon Decl., ¶ 8.)

Now that the violations on the Nuisance Property have been cured and the criminal case has resolved, the City initiated cost recovery proceedings in order to recover the City staff costs, expenses, fees, and attorneys’ fees (“Costs”) that the City incurred as a result of the nuisance abatement and code enforcement action. (McKinnon Decl., ¶ 10.) On January 17, 2017, the City issued a Cost Recovery Invoice in the amount of \$2,363.54, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Property. (McKinnon Decl., ¶ 11.) As a part of the cost recovery process, Attorney McKinnon researched property title information and discovered that Requestor Hyperion Fund, L.P. (“Requestor”) held legal title to the Nuisance Property at all times during the City’s nuisance abatement action. (McKinnon Decl., ¶ 2.) The City issued the Cost Recovery Invoice to Defendant, Requestor, and all Interested Parties of the Nuisance Property. (McKinnon Decl., ¶ 11.)

Requestor requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. (McKinnon Decl., ¶ 12.) The City requests that Hearing Officer James Butzbach (“Hearing Officer”) find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Property as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing.

III. LEGAL ANALYSIS

A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

California Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions, including attorneys’ fees. California Government Code section 38773.5 further provides that cities may specially assess these costs against the parcel of land where the nuisance occurred.

In accordance with California Government Code Section 38773.5, IMC sections 10.20–10.24 outline the City’s cost recovery procedures. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties for the nuisance conditions or code violations. This invoice must also be sent to entities with a recorded interest in the property where the nuisance conditions or code violations were located. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs,



enforcement expenses, legal services (including litigation costs, court costs, and attorneys' fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23. IMC section 10.24(B) further provides that the City may levy a special assessment against the Nuisance Property to recover any unpaid Costs.

Here, the City has the authority to recover Costs incurred in abating the IMC violations on the Nuisance Property because the City initiated a nuisance abatement action in order to compel Defendant to bring the Nuisance Property into compliance with the provisions of the IMC. Defendant illegally hung a Halloween decoration from a City street light pole that was located on the Nuisance Property and the City pursued criminal prosecution to compel compliance. The City incurred \$2,363.54 in Costs to compel Defendant to abate the IMC violations on the Nuisance Property and enforce the provisions of the IMC. As required by the IMC, the City issued an invoice to Requestor, Defendant, and all interested parties of the Nuisance Property to recover these Costs. The amount on the Cost Recovery Invoice is the total of the City staff costs, expenses, fees, and the City's attorneys' fees incurred in the nuisance abatement action up to that date and is fully recoverable under IMC section 10.20 and California Government Code section 38773.5. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.

As the owner of the Nuisance Property, Requestor has the ultimate responsibility to ensure that the Nuisance Property is maintained in accordance with the provisions of the IMC. Government Code section 38773.5 and IMC section 10.24(B) further demonstrate this responsibility by expressly authorizing the City to collect its Costs incurred in a nuisance abatement action through the levying of a special assessment against the property on which the nuisance conditions and IMC violations existed. Requestor therefore is jointly and severally liable to the City for its Costs and these Costs may be collected as a personal obligation of Requestor and as a special assessment against the Nuisance Property.

B. The City Has The Authority To Recover Its Costs Incurred For The Hearing To Contest The City's Cost Recovery Proceedings

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F), the prevailing party is entitled to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing from the non-prevailing party. The Costs incurred in preparing for and holding this hearing are also recoverable under the provisions of the IMC as they constitute a part of the nuisance abatement action as it deals directly with the City's abatement, through the criminal process, of the nuisance conditions and IMC violations on the Nuisance Property.

As discussed above, Requestor is liable for the City's Costs incurred in this nuisance abatement action as the owner of the Nuisance Property and as the entity who is ultimately



responsible to ensure that the Nuisance Property complies with the provisions of the IMC. Furthermore, the City has complied with all the requirements to recover its Costs as outlined in the relevant sections of the California Government Code and IMC and therefore has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a Cost Recovery Hearing is liable for the costs of the hearing as well. The cost of this hearing is a direct cost and expense arising as a consequence of the nuisances and IMC violations on the Nuisance Property. But for the violations observed on the Nuisance Property, the City would not have incurred the Costs to abate the nuisance conditions and IMC violations on the Nuisance Property.

In preparing for and holding this hearing, the City has incurred an additional \$1,898.23 plus Hearing Officer fees, in Costs. These Costs include Hearing Officer fees, attorneys' fees, and other administrative expenses preparing for and attending this Cost Recovery Hearing. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and is entitled to recover the full costs of the Cost Recovery Hearing as well.

IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$2,363.54 should be confirmed and Requestor must pay this amount as well as the costs incurred by the City in preparing for and holding this Cost Recovery Hearing which amount to \$1,898.23 plus Hearing Officer fees. Thus, Requestor must be ordered to pay a total of \$4,261.77 plus Hearing Officer fees.

- Attachments:
1. Government Code sections 38771–38775
 2. IMC sections 10.20–10.24
 3. Declaration of Attorney McKinnon in Support of City's Cost Recovery Rights
 4. Hearing Officer Proposed Decision



CITY OF INDIR
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

August 30, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1506I-0630

Nuisance Property: 82389 Orange Grove Avenue
Indio, California 92201
APN 610-162-019-8

Cost Recovery Amount: \$3,030.33

Hearing Request Deadline: September 14, 2016 (15 days)

Payment Deadline: October 14, 2016 (45 days)

Interested Parties:

Ms. Ramona R. Morales,
Trustee of The Morales Family Trust
Dated March 9, 1999
79-923 Castille Drive,
La Quinta, California 92253

Ms. Ramona R. Morales,
Trustee of The Morales Family Trust
Dated March 9, 1999
82389 Orange Grove Avenue,
Indio, California 92201

Mr. Joseph William Davies
Agent for SCME Mortgage Bankers, Inc.
8324 Allison Avenue,
La Mesa, California 91942

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$3,030.33 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs,



enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)


1. Code Enforcement Investigation Costs: \$115.00
2. Administrative Costs: \$507.53
3. Prosecution Fees: \$2,407.80
4. **Total: \$3,030.33**

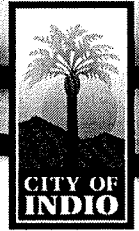
You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.


Jennifer Stroud
For Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: September 27, 2016

IPD Case Number: 1506I-0630
Nuisance Property: 82389 Orange Grove Avenue
Indio, California 92201
APN 610-162-019-8

Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of The City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Property. This Memorandum is supported by the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurred for holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

On June 4, 2015, City Code Enforcement Officer Stroud ("Officer Stroud") inspected the Nuisance Property in response to a complaint regarding roosters at the location. (Declaration of Attorney James McKinnon, "McKinnon Decl.", ¶ 4.) Officer Stroud observed one chicken in the backyard through the side yard fence. (McKinnon Decl., ¶ 4.) Officer Stroud tried making contact at the door but received no answer. (McKinnon Decl., ¶ 4.) After observing these conditions on the Nuisance Property, Officer Stroud researched title and determined that Requestor Ramona Rita Morales, as Trustee of The Morales Family Trust Dated March 9, 1999 ("Requestor") owned the Nuisance Property. (McKinnon Decl., ¶ 4.) Officer Stroud also discovered that Requestor did not have a business license for using the Nuisance Property as a rental property though there are individuals renting the Nuisance Property (McKinnon Decl., ¶ 4.) Officer Stroud forwarded this case to the City Prosecutor for criminal prosecution due to the continuing violations on the Nuisance Property. (McKinnon Decl., ¶ 4.)



On September 15, 2015, the Indio Deputy City Prosecutor appeared at the Arraignment Hearing for Requestor for maintaining the Nuisance Property in violation of IMC Sections 110.03(A) and 159.606(B)(1). (McKinnon Decl., ¶¶ 5, 7.) Requestor was ultimately convicted of both counts as Infractions for a total fine of \$150.00 plus penalty assessments. (McKinnon Decl., ¶ 7.)

Now that the violations on the Nuisance Property have been cured, the City initiated cost recovery proceedings in order to recover the City staff costs, expenses, fees, and attorneys' fees ("Costs") that the City incurred as a result of the nuisance abatement and code enforcement action. (McKinnon Decl., ¶ 8.) On August 30, 2016, the City issued a Cost Recovery Invoice in the amount of \$3,030.33, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Property. (McKinnon Decl., ¶ 9.)

Requestor timely requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. (McKinnon Decl., ¶ 10.) The City requests that Hearing Officer James Butzbach ("Hearing Officer") find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Property as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing.

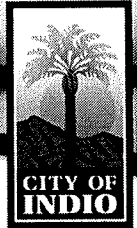
III. LEGAL ANALYSIS

A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

California Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions, including attorneys' fees. California Government Code section 38773.5 further provides that cities may specially assess these costs against the parcel of land where the nuisance occurred.

In accordance with California Government Code Section 38773.5, IMC sections 10.23–10.24 outline the City's cost recovery procedures. Accordingly, IMC section 10.23 is part of that statutorily authorized procedure established by the City. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties for the nuisance conditions or code violations. This invoice must also be sent to entities with a recorded interest in the property where the nuisance conditions or code violations were located. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services (including litigation costs, court costs, and attorneys' fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23.

Here, the City has the authority to recover Costs incurred in abating the IMC violations on the Nuisance Property because the City followed the procedures outlined in the IMC and the



regulations outlined in the California Government Code. The City discovered IMC violations on the Nuisance Property. In order to cure the IMC violations on the Nuisance Property, the City instituted a criminal action against Requestor. The City incurred \$3,030.33 in Costs to compel Requestor to abate the IMC violations on the Nuisance Property and enforce the provisions of the IMC. As required by the IMC, the City issued an invoice to Requestor. The amount on the Cost Recovery Invoice is the total of the City staff costs and the City's attorneys' fees incurred in the nuisance abatement action up to that date and is fully recoverable under IMC section 10.20 and California Government Code section 38773.5. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.

B. The City Has The Authority To Recover Its Costs Incurred For The Hearing To Contest The City's Cost Recovery Proceedings

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F), the City is entitled to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing because the City is entitled to recover all of its Costs in abating a nuisance. This Cost Recovery Hearing is part of the nuisance abatement action as it deals directly with the City's abatement through the criminal process.

As discussed above, in IMC section 10.23, the City has complied with all of the requirements to recover its Costs as outlined in the relevant sections of the California Government Code and, therefore, the City has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a Cost Recovery Hearing is liable for the costs of the hearing as well. The cost of this hearing is a direct cost and expense arising as a consequence of the nuisances and IMC violations on the Nuisance Property because but for the violations, the City would not have incurred the Costs to abate the nuisances, which Requestor is attempting to dispute in this hearing.

In preparing for and holding this hearing, the City has incurred an additional \$2,628.69 plus Hearing Officer fees, in Costs. These Costs include the fee for the Hearing Officer and attorneys' fees. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and, therefore, is entitled to recover the full costs of the Cost Recovery Hearing as well.

IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$3,030.33 should be confirmed and Requestor must pay this amount as well as the costs incurred by the City in preparing for and holding this Cost Recovery Hearing which amount to \$2,628.69



plus Hearing Officer fees. Thus, Requestor must be ordered to pay a total of \$5,659.02 plus Hearing Officer fees.

- Attachments:
1. Government Code sections 38771–38775
 2. IMC sections 10.20–10.24
 3. Declaration of Attorney McKinnon in Support of City’s Cost Recovery Rights
 4. Hearing Officer Proposed Decision



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

August 30, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1603I-1892

Nuisance Property: 45212 Fargo Street
Indio, California 92201
APN 611-175-027-2

Cost Recovery Amount: \$3,327.14

Hearing Request Deadline: September 14, 2016 (15 days)

Payment Deadline: October 14, 2016 (45 days)

Interested Parties:

Mr. Fernando Ortega
65802 Buena Vista Avenue
Desert Hot Springs, California 92240

Mr. Fernando Ortega
15151 Via Montana
Desert Hot Springs, California 92240

Mr. Fernando Ortega
45212 Fargo Street
Indio, California 92201

Investors Title Company
7530 North Glenoaks Boulevard
Burbank, California 91504

Filemon M. Landeros and Maria E.
Landeros
37402 Ironwood Drive
Yucaipa, California 92399

Mr. Richard Goldman
Agent for Priority Collections, Inc.
21818 Craggy View Street, Suite 201
Chatsworth, California 91311

L.A. Commercial Group, Inc. dba
Continental Commercial Group
317 South Brand Boulevard
Glendale, California 91204

Mr. Norman S. Soloman
Agent for Continental Commercial Group, LLC
929 East 2nd Street, Suite 101
Los Angeles, California 90012



American Express Bank, FSB
c/o Patenaude & Felix, A.P.C.
4545 Murphy Canyon Road, Third Floor
San Diego, California 92123

C T Corporation System
*Agent for American Express Centurion
Bank*
818 West Seventh Street, Suite 930
Los Angeles, California 90017

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$3,327.14 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$115.00
2. Administrative Costs: \$541.24
3. Prosecution Fees: \$2,670.90
4. **Total: \$3,327.14**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.


NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your



administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.


Jennifer Stroud
For Jason Anderson
Code Enforcement Supervisor
Indio Police Department



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

June 8, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1507I-2192

Nuisance Property: APN 692-010-010

Cost Recovery Amount: \$6,634.81

Hearing Request Deadline: June 23, 2016 (15 days)

Payment Deadline: July 23, 2016 (45 days)

Interested Parties:

Robert E. Wynner
Agent for Paradiso 177 Indio LLC
31248 Oak Crest Drive, Suite 100
Westlake Village, California 91361

C T Corporation System
Agent for Stewart Title of California, Inc.
818 West Seventh Street, Suite 930
Los Angeles, California 90017

Jeanette Sanborn
Agent for Palm Springs Plaza Del Sol,
LLC
555 South Sunrise Way, Suite 200
Palm Springs, California 92264

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$6,634.81 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$1,610.00
2. Administrative Costs: \$680.81
3. Prosecution Fees: \$4,344.00
4. **Total: \$6,634.81**

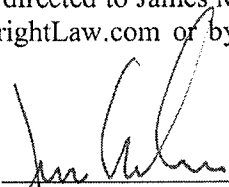


You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.



Jason Anderson
Code Enforcement Supervisor
Indio Police Department



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

August 30, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1504I-5435

Nuisance Property: Assessor's Parcel Numbers 692-220-020-5, 692-220-021-6,
692-220-022-7, and 692-220-024-9

Cost Recovery Amount: \$18,595.44

Hearing Request Deadline: September 14, 2016 (15 days)

Payment Deadline: October 14, 2016 (45 days)

Interested Parties:

C T Corporation System
Agent for SHJR, LLC
818 West Seventh Street, 2nd Floor
Los Angeles, California 90017

SHJR, LLC
3415 South Sepulveda Boulevard,
Suite 650
Los Angeles, California 90034

SHJR, LLC
82900 Avenue 42
Indio, California 92203

Lisa K. Pai
Agent for Wilshire Bank
3200 Wilshire Boulevard, Suite 1410
Los Angeles, California 90010

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees ("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$18,595.44 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)



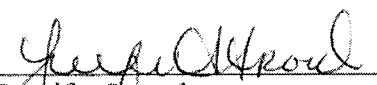
1. Code Enforcement Investigation Costs: \$1,219.00
2. Administrative Costs: \$1,409.84
3. Prosecution Fees: \$15,966.60
4. **Total: \$18,595.44**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.


Jennifer Stroud
For Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: November 29, 2016

IPD Case Number: 1504I-5435

Nuisance Properties: Assessor's Parcel Numbers 692-220-020-5, 692-220-021-6, 692-220-022-7,
and 692-220-024-9

Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of the City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Properties. This Memorandum is supported by provisions of the Government Code and the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurs preparing for and holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

On October 6, 2014, City Code Enforcement Officer Vargas ("Officer Vargas") responded to a complaint of potentially hazardous waste. (Declaration of Attorney James McKinnon, "McKinnon Decl.", ¶ 3.) Officer Vargas observed a large amount of trash, junk and debris inside the dumpster enclosures and throughout the parking lot and planter areas of the Nuisance Properties. (McKinnon Decl., ¶ 3.) Additionally, Officer Vargas noted that the dumpster enclosures needed to be secured. (McKinnon Decl., ¶ 3.) After the inspection, Officer Vargas researched property title information for the Nuisance Properties and discovered that SHJR, LLC ("Requestor") owned the Nuisance Properties. (McKinnon Decl., ¶ 4.) Officer Vargas subsequently issued an administrative citation to Requestor for the IMC violations observed during the inspection. (McKinnon Decl., ¶ 4.)

On April 29, 2015, City Code Enforcement Officer Stroud ("Officer Stroud") responded to a complaint regarding violations of the IMC on the Nuisance Properties. (McKinnon Decl., ¶



5.) In responding to the call, Officer Stroud observed overgrown vegetation, landscaping overrun with excessive amounts of weeds and grass, and a large shattered window that was still intact and visible from the front of the Nuisance Properties. (McKinnon Decl., ¶ 5.) Officer Stroud also observed a boarded up window next to a door of one of the structures on the Nuisance Properties. (McKinnon Decl., ¶ 6.) Officer Stroud also observed open and unsecure dumpster enclosures throughout the Nuisance Properties, many of which had an accumulation of trash and debris throughout the enclosures that also encroached onto the driveways of the Nuisance Properties. (McKinnon Decl., ¶ 6.) Officer Stroud also observed a dilapidated and sun-damaged address number posted on a building located on the Nuisance Properties. (McKinnon Decl., ¶ 6.) After observing these conditions on the Nuisance Properties, Officer Stroud researched title and determined that Requestor owned the Nuisance Properties. (McKinnon Decl., ¶ 6.) Officer Stroud subsequently referred the matter to the Indio City Prosecutor for criminal prosecution due to the continuing violations on the Nuisance Properties. (McKinnon Decl., ¶ 6.)

Indio Deputy City Prosecutors appeared at numerous court proceedings during the criminal case against Requestor for maintaining the Nuisance Properties in violation of IMC Sections 95A.104(F)(2), 95A.104(K)(5), 95A.104(K)(7), 95A.104(M)(1), and 151.137(C). (McKinnon Decl., ¶ 9-24.) The City even prepared to conduct a jury trial due to the continuing violations on the Nuisance Properties but the case ultimately resulted in Requestor's conviction on all five counts and the Requestor was ordered to pay fines and bring the Nuisance Properties into compliance within 30 days. (McKinnon Decl., ¶ 20.) Defendant did not cure the violations within the 30 day compliance period but ultimately brought the Nuisance Properties into substantial compliance and all of the dangerous violations were completely cured. (McKinnon Decl., ¶ 24.)

After the violations on the Nuisance Properties were cured, the City initiated cost recovery proceedings in order to recover the Costs the City incurred throughout the nuisance abatement and code enforcement action. (McKinnon Decl., ¶ 25.) On August 30, 2016, the City issued a Cost Recovery Invoice in the amount of \$18,595.44, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Properties. (McKinnon Decl., ¶ 25.)

Requestor, timely requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. (McKinnon Decl., ¶ 26.) The City requests that Hearing Officer James Butzbach ("Hearing Officer") find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Properties as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing.



III. LEGAL ANALYSIS

A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

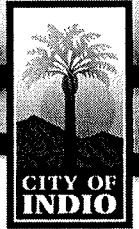
California Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions, including attorneys' fees. California Government Code section 38773.5 further provides that cities may specially assess these costs against the parcel of land where the nuisance occurred.

In accordance with California Government Code Section 38773.5, IMC sections 10.20–10.24 outline the City's cost recovery procedures. Accordingly, IMC section 10.23 is part of that statutorily authorized procedure established by the City. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties of the property where the nuisance conditions or IMC violations existed. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services (including litigation costs, court costs, and attorneys' fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23.

Here, the City has the authority to recover Costs incurred in abating the IMC violations on the Nuisance Properties because the City incurred these Costs compelling Requestor to abate the nuisance conditions and IMC violations on the Nuisance Properties. The City adhered to the regulations of Government Code section 38773.5 and the procedures outlined in the IMC. The City discovered IMC violations on the Nuisance Properties and initiated a criminal action against Requestor in order to cure the IMC violations on the Nuisance Properties. The City incurred \$18,595.44 in Costs to compel Requestor to abate the IMC violations on the Nuisance Properties and enforce the provisions of the IMC. As required by the IMC, the City issued an invoice to Requestor. The amount on the Cost Recovery Invoice is the total of the City's Costs incurred in the nuisance abatement action up to that date and is fully recoverable under IMC section 10.20 and California Government Code section 38773.5. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.

B. The City Has The Authority To Recover Its Costs Incurred In Preparing For And Holding The Cost Recovery Hearing Sought By Requestor

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F), the cost of the hearing will also be a liability of the non-prevailing party at the Cost Recovery Hearing.



Here, the City is entitled to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing because the City is entitled to recover all of its Costs in abating a nuisance. This Cost Recovery Hearing is part of the nuisance abatement action as it deals directly with the City's abatement through the criminal process.

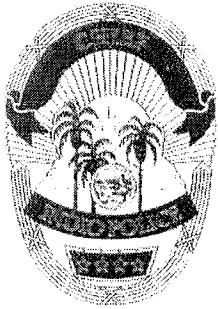
As discussed above, the City has complied with all of the requirements to recover its Costs as outlined in the relevant sections of the California Government Code and the IMC and therefore has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a Cost Recovery Hearing is liable for the costs of the hearing as well. As discussed above, the City has the right to recover its Costs incurred in this nuisance abatement action and thus would be the prevailing party in this Cost Recovery Hearing which would entitle the City to recover the additional expense incurred in preparing for and holding this Cost Recovery Hearing. The cost of this hearing is a direct cost and expense arising as a consequence of the nuisances and IMC violations on the Nuisance Properties because but for the violations, the City would not have incurred the Costs to abate the nuisances, which Requestor is attempting to dispute in this hearing.

In preparing for and holding the cost recovery hearings, the City has incurred an additional \$6,255.18 plus Hearing Officer fees, in Costs. These Costs include the fee for the Hearing Officer, administrative costs, and attorneys' fees. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and, therefore, is entitled to recover the full costs of the Cost Recovery Hearing as well.

IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$18,595.44 should be confirmed and Requestor must pay this amount as well as the Costs incurred by the City in preparing for and holding this Cost Recovery Hearing, which amount to \$6,255.18 plus Hearing Officer fees. Thus Requestor must be ordered to pay a total of \$24,850.62 plus Hearing Officer fees.

- Attachments:
1. IMC Sections 10.20–10.24
 2. California Government Code Section 38773.5
 3. Declaration of Attorney McKinnon in Support of City's Cost Recovery Rights
 4. Hearing Officer Proposed Decision



INDIO POLICE DEPARTMENT

46-800 JACKSON STREET • INDIO, CALIFORNIA 92201
(760) 391-4057 PHONE • (760) 391-4036 FAX

"Our Community ... Our Commitment"

Mike Washburn
Chief of Police

CITY OF INDIO

NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

May 30, 2017

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1702I-4704

Nuisance Property: 81280 Daffodil Court
Indio, California 92201
APN 616-342-036

Cost Recovery Amount: \$3,966.61

Hearing Request Deadline: June 14, 2017 (15 days)

Payment Deadline: July 14, 2017 (45 days)

Interested Parties:

Ms. Anicia M. Wasil
81280 Daffodil Court
Indio, California 92201

Genpact Registered Agent, Inc.
Agent for Mortgage Electronic
Registration Systems, Inc. (MERS), as
Nominee for Stearns Lending, Inc.
15420 Laguna Canyon Road, Suite 100
Irvine, California 92618

C T Corporation System
Agent for Stearns Lending, Inc.
818 West 7th Street, Suite 930
Los Angeles, California 90017

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees

("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$2,363.54 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

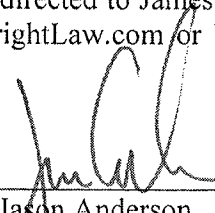
1. Code Enforcement Investigation Costs: \$460.00
2. Administrative Costs: \$577.21
3. Prosecution Fees: \$2,929.40
4. **Total: \$3,966.61**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to the "**Silver & Wright LLP**", attorneys for the City, and must be remitted to the attention of the Indio City Prosecutor at **Suite 100, 3 Corporate Park, Irvine, California 92606**.

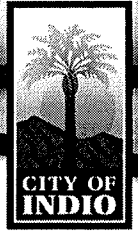
NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to James McKinnon, Indio Deputy City Prosecutor, by e-mail at JMcKinnon@SilverWrightLaw.com or by calling 949-385-6431, Ext. 103.



Jason Anderson
Code Enforcement Supervisor
Indio Police Department



CITY OF INDIO
NUISANCE ABATEMENT AND CODE ENFORCEMENT
COST RECOVERY INVOICE

March 30, 2016

DELIVERED VIA CERTIFIED MAIL

IPD Case #: 1502I-3538

Nuisance Property: 82513 Requa Avenue
Indio, California 92201
APN 611-191-020-5

Cost Recovery Amount: \$3,168.72

Hearing Request Deadline: April 14, 2016 (15 days)

Payment Deadline: May 15, 2016 (45 days)

Interested Parties:

Jose Zendejas
82513 Requa Avenue
Indio, California 92201

Jose Zendejas
P.O. Box 145
Indio, California 92202

Jose Zendejas
80561 Harvard Court
Indio, California 92201

Cuauhtemoc Naranjo
3450 South Interstate Highway 35 East,
Unit 5
Waxahachie, Texas 75165

Cuauhtemoc Naranjo
82513 Requa Ave
Indio, California 92201

Cuauhtemoc Naranjo
83166 Rue Paray
Thermal, California 92274

Pacific Mortgage Exchange, Inc.
73241 Highway 111, Suite 1-A
Palm Desert, California 92260

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Indio Municipal Code ("IMC") section 10.23, the City of Indio ("City") hereby seeks to recover its costs, expenses, fines, and fees



("Enforcement Costs") incurred in prosecuting violations of the IMC and abating public nuisances on the Nuisance Property.

The City's unpaid Enforcement Costs in this matter total \$3,168.72 and include, but are not limited to, the administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services, litigation costs, court costs, attorneys' fees, and any other direct costs and expenses arising as a consequence of the nuisance or violation. (IMC, § 10.20(B).)

1. Code Enforcement Investigation Costs: \$276.00
2. Administrative Costs: \$596.72
3. Prosecution Fees: \$2,296.00
4. **Total: \$3,168.72**

You must pay the balance owed to the City no later than the close-of-business on the 45th day after the mailing of this Invoice. Payment must be in the form of a **Cashier's Check** made payable to "**Silver & Wright LLP**", attorneys for the City of Indio, and must be remitted to the attention of the Indio City Prosecutor at **Suite 250, 3350 Shelby Street, Ontario, California 91764**.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(C), if the Enforcement Costs are not paid in full as required by law, then a lien or special assessment will be recorded or charged against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments.

NOTICE IS HEREBY GIVEN that, pursuant to IMC section 10.23(D), an Interested Party may request a hearing to dispute the amount of these Enforcement Costs. If you choose to request a hearing, you must complete and return a Nuisance Abatement and Code Enforcement Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the 15th day after the mailing of this Invoice. The HRF is available upon request at the Indio Police Department located at 46800 Jackson Street, Indio, California 92201. The HRF must be returned to the attention of the Indio Police Department Code Enforcement Division within the time required by law. Failure to timely request a hearing shall constitute a failure to exhaust your administrative remedies and shall constitute a waiver of your right to dispute this Invoice or further challenge the City's cost recovery rights.

Questions regarding this Invoice may be directed to the Code Enforcement Division of the Indio Police Department at 46800 Jackson Street, Indio, California 92201, or by calling 760-391-4123.

Jason Anderson
Code Enforcement Supervisor
Indio Police Department



MEMORANDUM

To: James Butzbach, *Hearing Officer*
From: James McKinnon, *Indio Deputy City Prosecutor*
Date: June 22, 2016

IPD Case Number: 1502I-3538
Nuisance Properties: APNs 611-191-001 and 611-191-019
Subject: City of Indio's Right to Recover Costs Incurred in Nuisance Abatement Action

I. INTRODUCTION

The City of Indio ("City") submits this Memorandum in Support of The City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement actions involving the Nuisance Properties. This Memorandum is supported by the Indio Municipal Code ("IMC"), which expressly authorizes the City to recover the costs, expenses, fees, and attorneys' fees ("Costs") it incurs in abating public nuisances on private property and enforcing the provisions of the IMC. The IMC also allows for the City to recover the Costs it incurred for holding a hearing sought by a property owner or interested party to contest the amount of costs sought to be recovered by the City.

II. STATEMENT OF FACTS

On February 19, 2015, City Code Enforcement Officer Brenda Johnson-Lujan ("Officer Johnson-Lujan") observed Jose Zendejas ("Zendejas") charge for parking on the Nuisance Properties. Officer Johnson-Lujan approached Zendejas and discovered that Zendejas did not have a business license and that the lot was not permitted as a parking lot. Officer Johnson-Lujan cited Zendejas for operating a business without a business license and the case was sent to the Indio City Prosecutor for prosecution. On March 11, 2015, the Indio City Prosecutor filed criminal charges against Zendejas for operating a business without a business license. The case ultimately resulted in Zendejas' conviction and he was ordered to pay \$100 in fines as a part of his plea.

Now that the violations on the Nuisance Properties have been cured, the City initiated cost recovery proceedings in order to recover the Costs the City incurred initiating the nuisance abatement and code enforcement action. On March 30, 2016, the City issued a Cost Recovery Invoice in the amount of \$3,168.72, which were the Costs the City incurred up to that point in its nuisance abatement action involving the Nuisance Properties. Zendejas timely requested a hearing to contest the cost recovery amount stated on the Cost Recovery Invoice. The City requests that



Hearing Officer James Butzbach (“Hearing Officer”) find that the City has the authority to recover its full Costs in abating the public nuisances on the Nuisance Properties as listed on the Cost Recovery Invoice and that the City also has the authority to recover the Costs it incurred in preparing for and holding this Cost Recovery Hearing.

III. LEGAL ANALYSIS

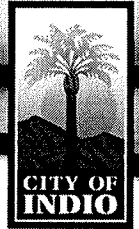
A. The City Has The Authority To Recover Its Costs Related To Enforcing Any Code Violation Or Nuisance Abatement

IMC section 10.20 states that the City is “entitled to recover its costs related to enforcing any code violation or nuisance abatement.” Government Code section 38773.5 authorizes cities to establish their own procedure for recovery of costs associated with nuisance abatement actions. IMC section 10.23 is part of that procedure established by the City. IMC section 10.23(C) requires the City to issue an invoice of the enforcement costs to the interested parties for the nuisance conditions or code violations. This invoice must also be sent to entities with a recorded interest in the property where the nuisance conditions or code violations were located. IMC section 10.20(B) states that the City can recover administrative fines, administrative costs, inspection costs, investigation costs, enforcement expenses, legal services (including litigation costs, court costs, and attorneys’ fees), and any other direct costs and expenses arising from the nuisance abatement action by means of the cost recovery procedures outlined in IMC section 10.23.

Here, the City has the authority to recover its costs that it incurred in abating the IMC violation on the Nuisance Properties. The City discovered an IMC violation on the Nuisance Properties. In order to cure the IMC violation on the Nuisance Properties, the City instituted a criminal action against Zendejas. The City incurred \$3,168.72 in Costs to compel Zendejas to abate the IMC violation on the Nuisance Properties and enforce the provisions of the IMC. As required by the IMC, the City issued an invoice to all interested parties, including Zendejas, who were liable for the Costs. The amount on the Cost Recovery Invoice is the total of the City staff costs and the City’s attorneys’ fees incurred in the nuisance abatement action and they are fully recoverable under IMC section 10.20. The City has followed all of the procedures required by the IMC to recover its Costs in this matter. Therefore, the City is entitled to recover the full amount of Costs listed in the Cost Recovery Invoice.

B. The City Has The Authority To Recover Its Costs Incurred For The Hearing To Contest The City’s Cost Recovery Proceedings

IMC section 10.20(A) states that the City has the right to recover its Costs relating to the enforcement of any code violation or nuisance abatement. After an invoice has been issued by the City to recover these Costs, IMC section 10.23(D) states that the liable parties have 15 calendar days to request a hearing regarding the amount of the Costs. Pursuant to IMC section 10.23(F),



the cost of the hearing will also be a liability of the non-prevailing party at the cost recovery hearing.

Here, the City is entitled to recover the Costs it incurred in preparing for and holding this cost recovery hearing because the City is entitled to recover its full Costs in abating the nuisance conditions on the Nuisance Properties and enforcing the IMC. As discussed above, the City has complied with all of the requirements to recover its Costs as outlined in IMC section 10.23 and, therefore, has the right to recover these Costs. Furthermore, IMC section 10.23(F) specifically states that the non-prevailing party in a cost recovery hearing is liable for the costs of the hearing as well. In preparing for and holding this hearing, the City has incurred an additional \$1,700.72 plus Hearing Officer fees in Costs. These Costs include the fee for the Hearing Officer and attorneys' fees. The City has followed all of the procedures required by the IMC to recover its Costs in this matter and, therefore, is entitled to recover the full costs of the cost recovery hearing as well.

IV. CONCLUSION

For these reasons, the cost recovery amount stated in the Cost Recovery Invoice of \$3,168.72 should be confirmed and Jose Zendejas must pay this amount as well as the costs incurred by the City in preparing for and holding this cost recovery hearing which amount to \$1,700.72 plus Hearing Officer fees. Thus Jose Zendejas must be ordered to pay a total of \$4,869.44 plus Hearing Officer fees.

- Attachments:
1. IMC Sections 10.20–10.24
 2. Declaration of Attorney McKinnon in Support of City's Cost Recovery Rights