



## NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

January 30, 2017

DELIVERED VIA CERTIFIED MAIL

**CCE Case Number:** 2015-400

**Nuisance Costs:** \$39,280.77

**Payment Deadline:** March 16, 2017 (45 days)

**Hearing Request Deadline:** February 14, 2017 (15 days)

**Nuisance Property:** APN 778-093-008-0

**Legal Description:** Real property in the City of Coachella, County of Riverside, State of California, described as follows:

LOT 5 IN BLOCK 3 OF COACHELLA, AS SHOWN BY MAP ON FILE IN BOOK 6, PAGE 49 OF MAPS, RECORDS OF RIVERSIDE COUNTY

### Interested Parties:

Ms. Marjorie Sansom  
5281 35th Street  
Rubidoux, California 92509

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Coachella City Code ("CCC") section 1.10.020, the City of Coachella ("City") hereby seeks to recover its costs, expenses, and fees ("Nuisance Costs") incurred in abating public nuisances, enforcing the CCC, and prosecuting violations of the CCC on the Nuisance Property.

The City's recoverable Nuisance Costs include, but are not limited to, administrative expenses and overhead, staff costs, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs, prosecution costs and fees, attorneys' costs and fees, cost recovery expenses, and collection costs. (CCC, § 1.10.020.)

The City's Nuisance Costs in this matter total \$39,280.77 to date. This total includes:



1. Staff Costs: \$2,670.62
2. Administrative Fines: \$21,650.00
3. Abatement Costs: \$10,100.00
4. Prosecution Fees: \$541.75
5. Litigation Costs: \$4,318.40
6. **Total: \$39,280.77**

These Nuisance Costs are a personal liability of the Nuisance Property owners and the named defendants in the criminal action, and a collateral liability of the lienholders for the Nuisance Property. (CCC, § 1.10.040.) You must reimburse these Nuisance Costs to the City within 45 days of the date of this Invoice ("Payment Deadline"). (CCC, § 1.10.050(B).) Payment must in the form of a **Cashier's Check** made payable to "**Silver & Wright LLP**" and should be remitted to the **Coachella City Prosecutor's Office at Suite 250, 3350 Shelby Street, Ontario, California 91764.** (CCC, § 1.10.050(B).)

NOTICE IS HEREBY GIVEN that if the Nuisance Costs are not paid in full as required by law, then a lien or special assessment will be recorded or levied against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments. (CCC, §§ 1.10.050(B), 1.10.090(A); Rev. & Tax. Code, § 3691(b)(1)(a).)

NOTICE IS HEREBY GIVEN that any party with a legal interest in the Nuisance Property may request a hearing regarding the amount of these Nuisance Costs. (CCC, § 1.10.050(B).) To request a hearing, a party with a legal interest must complete and return a Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the fifteenth day after the mailing of this Invoice ("Hearing Request Deadline"). The HRF is available upon request at the Coachella Code Enforcement Division located at 1515 Sixth Street, Coachella, California 92236. The HRF must be returned to the Coachella City Clerk's Office within the time required by law. Failure to timely and properly request a hearing shall constitute a waiver of your right to dispute the Nuisance Costs or further challenge the City's cost recovery rights, and shall constitute a failure to exhaust your administrative remedies. (CCC, § 1.10.050(B).) PLEASE NOTE that the existence and liability for the underlying CCC violations has been judicially established by the Superior Court. Accordingly, these issues may not be disputed or contested at any hearing requested pursuant to this Invoice.



## CITY OF COACHELLA

1515 SIXTH STREET, COACHELLA, CALIFORNIA 92236

PHONE (760) 398-3502 • FAX (760) 398-8117 • [WWW.COACHELLA.ORG](http://WWW.COACHELLA.ORG)

Questions regarding this Invoice may be directed to the Code Enforcement Division at 1515 Sixth Street, Coachella, California 92236, or by calling 760-398-4978.

HECTOR MOLINA  
Code Compliance Manager  
Coachella Code Enforcement Division



## NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

April 20, 2017

DELIVERED VIA CERTIFIED MAIL

**CCE Case Number:** 2015-371

**Nuisance Costs:** \$7,794.17

**Payment Deadline:** June 5, 2017 (45 days)

**Hearing Request Deadline:** May 5, 2017 (15 days)

**Nuisance Property:** 84411 Avenida Florabunda  
Coachella, California 92236  
APN 603-530-004

**Legal Description:** LOT 11, OF TRACT NO. 30498-1, AS SHOWN BY MAP ON FILE IN  
BOOK 334, PAGES 40-53, OF MAPS, RECORDS OF RIVERSIDE COUNTY,  
CALIFORNIA.

### Interested Parties:

Mr. Juan Alvarado  
84411 Avenida Florabunda  
Coachella, California 92236

California Housing Finance Agency  
1121 L Street, Suite 103  
Sacramento, California 95814

C T Corporation System  
*Agent for SolarCity Corporation*  
818 West 7th Street, Suite 930  
Los Angeles, California 90017

Riverside County Tax Collector  
4080 Lemon Street, 4th Floor  
Riverside, California 92501

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Coachella City Code (“CCC”) section 1.10.020, the City of Coachella (“City”) hereby seeks to recover its costs, expenses, and fees (“Nuisance Costs”) incurred in abating public nuisances, enforcing the CCC, and prosecuting violations of the CCC on the Nuisance Property.





The City's recoverable Nuisance Costs include, but are not limited to, administrative expenses and overhead, staff costs, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs, prosecution costs and fees, attorneys' costs and fees, cost recovery expenses, and collection costs. (CCC, § 1.10.020.)

The City's Nuisance Costs in this matter total \$7,794.17 to date. This total includes:

1. Staff Costs: \$2,134.72
2. Prosecution Fees: \$481.05
3. Litigation Costs: \$5,178.40
4. **Total: \$7,794.17**

These Nuisance Costs are a personal liability of the Nuisance Property owners and the named defendants in the criminal action, and a collateral liability of the lienholders for the Nuisance Property. (CCC, § 1.10.040.) You must reimburse these Nuisance Costs to the City within 45 days of the date of this Invoice ("Payment Deadline"). (CCC, § 1.10.050(B).) Payment must in the form of a **Cashier's Check** made payable to "**Silver & Wright LLP**" and should be remitted to the **Coachella City Prosecutor's Office at 3 Corporate Park, Suite 100, Irvine, California 92606**. (CCC, § 1.10.050(B).)

NOTICE IS HEREBY GIVEN that if the Nuisance Costs are not paid in full as required by law, then a lien or special assessment will be recorded or levied against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments. (CCC, §§ 1.10.050(B), 1.10.090(A); Rev. & Tax. Code, § 3691(b)(1)(a).)

NOTICE IS HEREBY GIVEN that any party with a legal interest in the Nuisance Property may request a hearing regarding the amount of these Nuisance Costs. (CCC, § 1.10.050(B).) To request a hearing, a party with a legal interest must complete and return a Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the fifteenth day after the mailing of this Invoice ("Hearing Request Deadline"). The HRF is available upon request at the Coachella Code Enforcement Division located at 1515 Sixth Street, Coachella, California 92236. The HRF must be returned to the Coachella City Clerk's Office within the time required by law. Failure to timely and properly request a hearing shall constitute a waiver of your right to dispute the Nuisance Costs or further challenge the City's cost recovery rights, and shall constitute a failure to exhaust your administrative remedies. (CCC, § 1.10.050(B).) PLEASE NOTE that the existence and liability for the underlying CCC violations has been judicially established by the Superior Court. Accordingly, these issues may not be disputed or contested at any hearing requested pursuant to this Invoice.



## CITY OF COACHELLA

1515 SIXTH STREET, COACHELLA, CALIFORNIA 92236

PHONE (760) 398-3502 • FAX (760) 398-8117 • WWW.COACHELLA.ORG

Questions regarding this Invoice may be directed to the Code Enforcement Division at 1515 Sixth Street, Coachella, California 92236, or by calling 760-398-4978.

HECTOR MOLINA  
Code Compliance Manager  
Coachella Code Enforcement Division



## NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

July 21, 2016

DELIVERED VIA FIRST-CLASS MAIL

**CCE Case Number:** 2015-331

**Nuisance Costs:** \$6,650.52

**Payment Deadline:** September 5, 2016 (45 days)

**Hearing Request Deadline:** August 5, 2016 (15 days)

**Nuisance Property:** 48482 Red Mountain Place  
Coachella, California 92236  
APN 612-571-021-7

**Legal Description:** Real property in the City of Coachella, County of Riverside, State of California, described as follows:

LOT 28 OF TRACT 30910-2, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE,  
AS PER MAP RECORDED IN BOOK 370, PAGE(S) 15 THROUGH 19, OF  
MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID  
COUNTY.

### Interested Parties:

Delfino Rivera Cardenas  
48482 Red Mountain Place  
Coachella, California 92236

Andrea Rivera Cardenas  
48482 Red Mountain Place  
Coachella, California 92236

State of California  
Employment Development Department  
P.O. Box 826218  
Sacramento, California 94230

Dave Gunderson  
Agent for Credit Union of Southern  
California  
P.O. Box 200  
Whittier, California 90608

CSC – Lawyers Incorporating Service  
Agent for Wells Fargo Bank, National  
Association  
2710 Gateway Oaks Drive  
Suite 150N  
Sacramento, California 95833



To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Coachella City Code (“CCC”) section 1.10.020, the City of Coachella (“City”) hereby seeks to recover its costs, expenses, and fees (“Nuisance Costs”) incurred in abating public nuisances, enforcing the CCC, and prosecuting violations of the CCC on the Nuisance Property.

The City’s recoverable Nuisance Costs include, but are not limited to, administrative expenses and overhead, staff costs, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs, prosecution costs and fees, attorneys’ costs and fees, cost recovery expenses, and collection costs. (CCC, § 1.10.020.)

The City’s Nuisance Costs in this matter total \$6,650.52 to date. This total includes:

1. Staff Costs: 15 hours × \$104 = \$1,560.00
2. Prosecution Fees: \$4,588.60
3. Litigation Costs: \$501.92
4. **Total: \$6,650.52**

These Nuisance Costs are a personal liability of the Nuisance Property owners and the named defendants in the criminal action, and a collateral liability of the lienholders for the Nuisance Property. (CCC, § 1.10.040.) You must reimburse these Nuisance Costs to the City within 45 days of the date of this Invoice (“Payment Deadline”). (CCC, § 1.10.050(B).) Payment must in the form of a **Cashier’s Check** made payable to “**Silver & Wright LLP**”, attorneys for the City of Coachella, and should be remitted to the **Coachella City Prosecutor’s Office at Suite 250, 3350 Shelby Street, Ontario, California 91764**. (CCC, § 1.10.050(B).)

NOTICE IS HEREBY GIVEN that if the Nuisance Costs are not paid in full as required by law, then a lien or special assessment will be recorded or levied against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments. (CCC, §§ 1.10.050(B), 1.10.090(A); Rev. & Tax. Code, § 3691(b)(1)(a).)

NOTICE IS HEREBY GIVEN that any party with a legal interest in the Nuisance Property may request a hearing regarding the amount of these Nuisance Costs. (CCC, § 1.10.050(B).) To request a hearing, a party with a legal interest must complete and return a Cost Recovery Hearing Request Form (“HRF”) to the City no later than the close-of-business on the fifteenth day after the mailing of this Invoice (“Hearing Request Deadline”). The HRF is available upon request at the Coachella Code Enforcement Division located at 1515 Sixth Street, Coachella, California 92236. The HRF must be returned to the Coachella City Clerk’s Office within the time required by law.





## CITY OF COACHELLA

1515 SIXTH STREET, COACHELLA, CALIFORNIA 92236

PHONE (760) 398-3502 • FAX (760) 398-8117 • [WWW.COACHELLA.ORG](http://WWW.COACHELLA.ORG)

Failure to timely and properly request a hearing shall constitute a waiver of your right to dispute the Nuisance Costs or further challenge the City's cost recovery rights, and shall constitute a failure to exhaust your administrative remedies. (CCC, § 1.10.050(B).) PLEASE NOTE that the existence and liability for the underlying CCC violations has been judicially established by the Superior Court. Accordingly, these issues may not be disputed or contested at any hearing requested pursuant to this Invoice.

Questions regarding this Invoice may be directed to the Code Enforcement Division at 1515 Sixth Street, Coachella, California 92236, or by calling 760-398-4978.

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HECTOR MOLINA  
Code Compliance Manager  
Coachella Code Enforcement Division



CITY OF COACHELLA

1515 SIXTH STREET, COACHELLA, CALIFORNIA 92236

PHONE (760) 398-3502 • FAX (760) 398-8117 • WWW.COACHELLA.ORG

## NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

September 14, 2016

DELIVERED VIA CERTIFIED MAIL

**CCE Case Number:** 2014-140

**Nuisance Costs:** \$18,520.00

**Payment Deadline:** October 31, 2016 (45 days)

**Hearing Request Deadline:** September 29, 2016 (15 days)

**Nuisance Property:** 86011 Las Flores Avenue  
Coachella, California 92236  
APN 763-053-001-1

**Legal Description:** Real property in the City of Coachella, County of Riverside, State of California, described as follows:  
LOT 20 OF TRACT NO 4384, AS SHOWN BY MAP ON FILE IN BOOK 72, PAGES 89  
OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA

### Interested Parties:

Ms. Isabell Rachel Amaya Sanchez  
86011 Las Flores Avenue  
Coachella, California 92236

Mr. Tony Julio Sanchez  
86011 Las Flores Avenue  
Coachella, California 92236

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Coachella City Code ("CCC") section 1.10.020, the City of Coachella ("City") hereby seeks to recover its costs, expenses, and fees ("Nuisance Costs") incurred in abating public nuisances, enforcing the CCC, and prosecuting violations of the CCC on the Nuisance Property.

The City's recoverable Nuisance Costs include, but are not limited to, administrative expenses and overhead, staff costs, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs, prosecution costs and fees, attorneys' costs and fees, cost recovery expenses, and collection costs. (CCC, § 1.10.020.)

*An Affirmative Action/Equal Opportunity Employer*



The City's Nuisance Costs in this matter total \$18,520.00 to date. This total includes:

1. Staff Costs: 34 hours × \$95.27 = \$3,239.18
2. Prosecution Fees: \$14,119.70
3. Litigation Costs: \$1,161.12
4. **Total: \$18,520.00**

These Nuisance Costs are a personal liability of the Nuisance Property owners and the named defendants in the criminal action, and a collateral liability of the lienholders for the Nuisance Property. (CCC, § 1.10.040.) You must reimburse these Nuisance Costs to the City within 45 days of the date of this Invoice ("Payment Deadline"). (CCC, § 1.10.050(B).) Payment must in the form of a **Cashier's Check** made payable to the "City of Coachella" and should be remitted to the **Coachella City Prosecutor's Office at 3350 Shelby Street, Suite 250, Ontario, California 91764.** (CCC, § 1.10.050(B).)

NOTICE IS HEREBY GIVEN that if the Nuisance Costs are not paid in full as required by law, then a lien or special assessment will be recorded or levied against the Nuisance Property, and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments. (CCC, §§ 1.10.050(B), 1.10.090(A); Rev. & Tax. Code, § 3691(b)(1)(a).)

NOTICE IS HEREBY GIVEN that any party with a legal interest in the Nuisance Property may request a hearing regarding the amount of these Nuisance Costs. (CCC, § 1.10.050(B).) To request a hearing, a party with a legal interest must complete and return a Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the fifteenth day after the mailing of this Invoice ("Hearing Request Deadline"). The HRF is available upon request at the Coachella Code Enforcement Division located at 1515 Sixth Street, Coachella, California 92236. The HRF must be returned to the Coachella City Clerk's Office within the time required by law. Failure to timely and properly request a hearing shall constitute a waiver of your right to dispute the Nuisance Costs or further challenge the City's cost recovery rights, and shall constitute a failure to exhaust your administrative remedies. (CCC, § 1.10.050(B).) PLEASE NOTE that the existence and liability for the underlying CCC violations has been judicially established by the Superior Court. Accordingly, these issues may not be disputed or contested at any hearing requested pursuant to this Invoice.



## CITY OF COACHELLA

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Questions regarding this Invoice may be directed to the Code Enforcement Division at 1515 Sixth Street, Coachella, California 92236, or by calling 760-398-4978.

HECTOR MOLINA  
Code Compliance Manager  
Coachella Code Enforcement Division





## MEMORANDUM

To: Rod Fick, *Hearing Officer*

From: James McKinnon, *Coachella Deputy City Prosecutor*

Date: December 2, 2016

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CCE Case Number: 2014-140  
Nuisance Property: 86011 Las Flores Avenue  
Coachella, California 92236

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

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### I. INTRODUCTION

The City of Coachella ("City") submits this Memorandum in Support of the City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement action involving the Nuisance Property. This Memorandum is supported by the Coachella City Code ("CCC"), which expressly authorizes the City to recover all costs, expenses, fees, and attorneys' fees ("Costs") incurred related to any nuisance abatement or code enforcement activity. The CCC also allows for the City to recover the Costs it incurred preparing for and holding a hearing sought by responsible parties or parties with a recorded interest in the nuisance property (collectively "interested parties"), to contest the amount of Costs sought to be recovered by the City.

### II. STATEMENT OF FACTS

On June 25, 2015, City Senior Code Enforcement Officer Alex Alarcon ("Officer Alarcon") inspected the Nuisance Property in response to several complaints regarding the maintenance of the Nuisance Property. (Declaration of Senior Code Enforcement Officer Alex Alarcon, "Alarcon Decl.", ¶ 2.) Officer Alarcon observed broken furniture, appliances, and tools throughout the front yard of the Nuisance Property. (Alarcon Decl., ¶ 2.) The front and visible side yards of the Nuisance Property contained dead and overgrown vegetation and it lacked ground cover, contributing to a blighted appearance of the Nuisance Property. (Alarcon Decl., ¶ 2.) Additionally, a tree on the Nuisance Property lacked proper maintenance and as a result had overgrown to the point that it extended over the sidewalk and roadway which obscured the visibility of the pedestrian walkway. (Alarcon Decl., ¶ 2.) Officer Alarcon observed an excessive



amount of junk, refuse, and garbage throughout the Nuisance Property and that the garage door appeared broken and was held open with a piece of wood. (Alarcon Decl., ¶ 2.) Officer Alarcon also observed a block wall that separated the Nuisance Property from the public sidewalk but the block wall was in a state of disrepair and had rebar protruding from it, constituting a severe safety hazard as pedestrians may suffer injury from the protruding rebar. (Alarcon Decl., ¶ 2.) After this inspection, Officer Alarcon researched title and determined that Tony Julio Sanchez and Lydia Sanchez (“Owners”) owned the Nuisance Property. (Alarcon Decl., ¶ 3.) Officer Alarcon conducted follow up inspections of the Nuisance Property on July 14, 2014, September 3, 2014, February 3, 2015, March 18, 2015, April 2, 2015, April 20, 2015, and May 26, 2015 and observed the same violations as those observed during the June 25, 2014 inspection. (Alarcon Decl., ¶¶ 4–10.)

Due to the continuing violations on the Nuisance Property, Officer Alarcon subsequently forwarded this case to the City Prosecutor’s Office for criminal prosecution. (Alarcon Decl., ¶ 11.) The City initially filed criminal charges against Lydia Sanchez but it was later discovered that Lydia Sanchez was deceased. (Declaration of Attorney James McKinnon, “McKinnon Decl.”, ¶¶ 5–8.) Further investigations, as well as an admission by Requestor Isabell Sanchez (“Requestor”), uncovered that Requestor had possession and control of the Nuisance Property at all times during the nuisance abatement action. (McKinnon Decl., ¶ 9.) The City subsequently filed criminal charges against Requestor for the CCC violations observed on the Nuisance Property. (McKinnon Decl., ¶ 11.) Requestor ultimately plead guilty to 24 counts and was placed on 36 months’ probation. (McKinnon Decl., ¶ 17.) As a part of the plea, Requestor was ordered to cure the remaining violations on the Nuisance Property within 30 days. (McKinnon Decl., ¶ 17.) Requestor ultimately cured all of the dangerous and hazardous nuisance conditions and CCC violations on the Nuisance Property and the criminal case resolved. (McKinnon Decl., ¶ 20.)

Following the resolution of the criminal case, the City issued a Cost Recovery Invoice in the amount of \$18,520.33 to Requestor and to all interested parties of the Nuisance Property to recover the City’s Costs incurred in abating the nuisance conditions and CCC violations on the Nuisance Property. (McKinnon Decl., ¶ 23.) Requestor timely filed a request for a Cost Recovery Hearing to dispute the amount of Costs sought to be recovered by the City and notice was sent to Requestor of the Cost Recovery Hearing scheduled for December 7, 2016. (McKinnon Decl., ¶ 24.)

### 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, CCC sections 1.10.020–1.10.090 are part of that statutorily authorized procedure established by the City. CCC section 1.10.050(B) requires the City to issue an invoice identifying all nuisance costs incurred in any nuisance abatement or code enforcement related activity on all interested parties and all parties with a recorded interest in the nuisance property. CCC section 1.10.020 states that the City's recoverable Costs include, but are not limited to, administrative expenses, administrative overhead, City staff time, City variable and fixed expenses, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs and fees, prosecution costs and fees, attorneys' costs and fees, cost recovery expenses, and collection costs incurred related to any nuisance abatement or code enforcement activity.

Here, the City has the authority to recover Costs incurred in abating the CCC violations on the Nuisance Property because the City incurred the Costs listed on the Cost Recovery Invoice due to the City's efforts to abate the nuisance conditions and CCC violations on the Nuisance Property. The City elected to pursue criminal prosecution in order to compel Requestor to cure the CCC violations on the Nuisance Property and the amount on the Cost Recovery Invoice reflect the total of the City staff costs, expenses, fees, and attorneys' fees incurred to abate said CCC violations through criminal prosecution. Requestor had possession and control over the Nuisance Property during the entirety of the nuisance abatement action by her own admission and by her abating the nuisance conditions and CCC violations on the Nuisance Property. As such, Requestor is personally liable to the City for these costs and the City may specially assess the Nuisance Property for these Costs pursuant to CCC section 1.10.040.

Furthermore, the City followed the procedures outlined in the CCC and the regulations outlined in the California Government Code. As required by the CCC, the City issued an invoice to Requestor and all interested parties of the Nuisance Property in the amount of \$18,520.33. 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 CCC section 1.10.020 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 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**

Under CCC section 1.10.020, the City is entitled to recover all costs, expenses, and fees incurred related to any nuisance abatement or code enforcement activity. Pursuant to CCC section 1.10.020, 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 related to any nuisance abatement activity. Furthermore, CCC section 1.10.070(E) expressly states that all of the costs of the hearing shall be borne by the non-prevailing party.

As discussed above, the City is entitled to cost recovery in this case under CCC section 1.10.020 as Requestor is responsible for the nuisance conditions and CCC violations abated on the Nuisance Property and the City has complied with all of the requirements to recover its Costs. This Cost Recovery Hearing acts as a continuation of the nuisance abatement action instituted by the City as the subject matter directly relates to the abatement of nuisance conditions and CCC violations on the Nuisance Property through criminal prosecution. Furthermore, CCC section 1.10.070(E) specifically states that all costs of the hearing shall be borne by the non-prevailing parties and it is clear in this case that the City has a right to full cost recovery. CCC section 1.10.070(E) further states that if any cost recovery is upheld, even in part, the City shall be the prevailing party and therefore entitled to recover the City staff costs, expenses, fees, and attorneys' fees 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 CCC 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 \$6,693.60 plus Hearing Officer fees, in Costs. These Costs include the fee for the Hearing Officer and attorneys' fees and costs. The City has followed all of the procedures required by the CCC 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 \$18,520.00 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 \$6,693.60 plus Hearing Officer fees. Thus, Requestor must be ordered to pay a total of \$25,213.60 plus Hearing Officer fees.

- Attachments:
1. Government Code sections 38771–38775
  2. CCC sections 1.10.020–1.10.070(E)
  3. Declaration of Senior Code Enforcement Officer Alex Alarcon in Support of City's Cost Recovery Rights
  4. Declaration of Attorney McKinnon in Support of City's Cost Recovery Rights
  5. Hearing Officer Proposed Decision





## NUISANCE ABATEMENT AND CODE ENFORCEMENT COST RECOVERY INVOICE

April 20, 2017

DELIVERED VIA CERTIFIED MAIL

**CCE Case Number:** 2014-153

**Nuisance Costs:** \$26,455.98

**Payment Deadline:** June 5, 2017 (45 days)

**Hearing Request Deadline:** May 5, 2017 (15 days)

**Nuisance Property:** 84623 Las Lunas Avenue  
Coachella, California 92236  
APN 603-511-013-8

**Legal Description:** Real property in the City of Coachella, County of Riverside, State of California, described as follows:

LOT 13 OF TRACT 29071-1, IN THE CITY OF COACHELLA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 292, PAGES 54 THROUGH 56, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

### Interested Parties:

Mr. Cesar Manuel Garcia  
84623 Las Lunas Avenue  
Coachella, California 92236

Ms. Claudia V. Garcia  
84623 Las Lunas Avenue  
Coachella, California 92236

Mr. Enrique Garcia  
84623 Las Lunas Avenue  
Coachella, California 92236

Ms. Susana Flores  
84623 Las Lunas Avenue  
Coachella, California 92236

City of Coachella  
1515 Sixth Street  
Coachella, California 92236

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



Riverside County Tax Collector  
4080 Lemon Street, 4th Floor  
Riverside, California 92501

State of California  
Franchise Tax Board Special  
Procedures Section  
P.O. Box 2952  
Sacramento, California 95812

Internal Revenue Service  
Attn: Technical Services Advisory  
Group Manager – M/S 5905  
24000 Avila Road  
Laguna Niguel, California 92677

To All Interested Parties:

NOTICE IS HEREBY GIVEN that, pursuant to Coachella City Code (“CCC”) section 1.10.020, the City of Coachella (“City”) hereby seeks to recover its costs, expenses, and fees (“Nuisance Costs”) incurred in abating public nuisances, enforcing the CCC, and prosecuting violations of the CCC on the Nuisance Property.

The City’s recoverable Nuisance Costs include, but are not limited to, administrative expenses and overhead, staff costs, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs, prosecution costs and fees, attorneys’ costs and fees, cost recovery expenses, and collection costs. (CCC, § 1.10.020.)

The City’s Nuisance Costs in this matter total \$26,455.98 to date. This total includes:

1. Staff Costs: \$3,612.49
2. Prosecution Fees: \$21,580.70
3. Litigation Costs: \$1,262.79
4. **Total: \$26,455.98**

These Nuisance Costs are a personal liability of the Nuisance Property owners and the named defendants in the criminal action, and a collateral liability of the lienholders for the Nuisance Property. (CCC, § 1.10.040.) You must reimburse these Nuisance Costs to the City within 45 days of the date of this Invoice (“Payment Deadline”). (CCC, § 1.10.050(B).) Payment must in the form of a **Cashier’s Check** made payable to the “**Silver & Wright LLP**” and should be remitted to the **Coachella City Prosecutor’s Office at 3 Corporate Park, Suite 100, Irvine, California 92606**. (CCC, § 1.10.050(B).)

NOTICE IS HEREBY GIVEN that if the Nuisance Costs are not paid in full as required by law, then a lien or special assessment will be recorded or levied against the Nuisance Property,



and the Nuisance Property may be sold after three years by the tax collector for unpaid delinquent assessments. (CCC, §§ 1.10.050(B), 1.10.090(A); Rev. & Tax. Code, § 3691(b)(1)(a).)

NOTICE IS HEREBY GIVEN that any party with a legal interest in the Nuisance Property may request a hearing regarding the amount of these Nuisance Costs. (CCC, § 1.10.050(B).) To request a hearing, a party with a legal interest must complete and return a Cost Recovery Hearing Request Form ("HRF") to the City no later than the close-of-business on the fifteenth day after the mailing of this Invoice ("Hearing Request Deadline"). The HRF is available upon request at the Coachella Code Enforcement Division located at 1515 Sixth Street, Coachella, California 92236. The HRF must be returned to the Coachella City Clerk's Office within the time required by law. Failure to timely and properly request a hearing shall constitute a waiver of your right to dispute the Nuisance Costs or further challenge the City's cost recovery rights, and shall constitute a failure to exhaust your administrative remedies. (CCC, § 1.10.050(B).) PLEASE NOTE that the existence and liability for the underlying CCC violations has been judicially established by the Superior Court. Accordingly, these issues may not be disputed or contested at any hearing requested pursuant to this Invoice.

Questions regarding this Invoice may be directed to the Code Enforcement Division at 1515 Sixth Street, Coachella, California 92236, or by calling 760-398-4978.

HECTOR MOLINA  
Code Compliance Manager  
Coachella Code Enforcement Division



## MEMORANDUM

To: Rod Fick, *Hearing Officer*

From: James McKinnon, *Coachella Deputy City Prosecutor*

Date: June 7, 2017

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CCE Case Number: 2014-153  
Nuisance Property: 84623 Las Lunas Avenue  
Coachella, California 92236

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

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### I. INTRODUCTION

The City of Coachella ("City") submits this Memorandum in Support of the City's Right to Cost Recovery ("Memorandum") relating to its nuisance abatement action involving the Nuisance Property. This Memorandum is supported by the Coachella City Code ("CCC"), which expressly authorizes the City to recover all costs, expenses, fees, and attorneys' fees ("Costs") incurred related to any nuisance abatement or code enforcement activity. The CCC also allows for the City to recover the Costs it incurred preparing for and holding a hearing sought by responsible parties or parties with a recorded interest in the nuisance property (collectively "interested parties"), to contest the amount of Costs sought to be recovered by the City.

### II. STATEMENT OF FACTS

On July 9, 2014, City Senior Code Enforcement Officer Alex Alarcon ("Officer Alarcon") inspected the Nuisance Property from the public view in response to several complaints regarding construction on the Nuisance Property. (Declaration of Senior Code Enforcement Officer Alex In Support of City's Cost Recovery Rights, "Alarcon Decl.", ¶ 5.) Officer Alarcon observed a balcony and patio enclosure that had been constructed without permits in violation of CCC section 3.10.010(D)(17) and California Building Code ("CBC") section 105.1. (Alarcon Decl., ¶ 5.)

Officer Alarcon conducted follow up inspections of the Nuisance Property from the public view on August 25, 2014, September 24, 2014, October 9, 2014, November 10, 2014, December 9, 2014, January 12, 2015, February 3, 2015, March 17, 2015, April 2, 2015, April 20, 2015, and





May 27, 2015 and observed the same violations as those observed during the July 9, 2014 inspection. (Alarcon Decl., ¶ 6.)

Based on violations observed during the previous inspections from public view, Officer Alarcon sought and obtained a search warrant to search the interior and exterior of the Nuisance Property on September 22, 2015 (“Search Warrant”). (Alarcon Decl., ¶ 7.) Officer Alarcon along with other City inspectors and former Deputy City Prosecutor Brandon Sanchez (“Attorney Sanchez”), executed the Search Warrant on September 29, 2015, and discovered additional violations of State and local laws on the Nuisance Property, including the unpermitted conversion of the garage into a separate rental unit and the unpermitted expansion of the entire rear of the main residence. (Alarcon Decl., ¶ 7.)

Due to the continuing violations on the Nuisance Property, Officer Alarcon forwarded this case to the City Prosecutor’s Office for criminal prosecution. (Alarcon Decl., ¶ 8.) The City filed criminal charges against Requestor on October 29, 2015 for the CCC violations observed on the Nuisance Property during the January 12, 2015, July 14, 2014, September 3, 2014, February 3, 2015, March 18, 2015, April 2, 2015, April 20, 2015, May 26, 2015, and September 29, 2015 inspections. (Declaration of Attorney James McKinnon In Support of City’s Cost Recovery Rights, “McKinnon Decl.”, ¶¶ 8–9.)

After the Arraignment and several Pretrial hearings, the Court set the matter for Trial on April 12, 2016 due to Requestor’s failure to make any substantial progress toward curing the CCC violations on the Nuisance Property. (Alarcon Decl., ¶¶ 11–16.) Trial was continued three times at Requestor’s request and further delayed when Requester filed a Motion to Quash/Suppress Evidence on June 7, 2016, which the City opposed. (Alarcon Decl., ¶¶ 22–23.) Requester ultimately withdrew his Motion to Quash/Suppress Evidence and took the City’s plea offer. (McKinnon Decl., ¶ 23.) As part of the plea, Requester plead guilty to nine counts as misdemeanors and was ordered to pay \$9,000 in fines with \$8,100 in fines stayed pending full compliance within 90 days. (McKinnon Decl., ¶ 23.) Requestor was also placed on informal probation for 36 months. (McKinnon Decl., ¶ 23.) Requestor ultimately cured all of the dangerous and hazardous nuisance conditions and CCC violations on the Nuisance Property and the criminal case resolved. (McKinnon Decl., ¶ 24.)

Following the resolution of the criminal case, the City issued a Cost Recovery Invoice in the amount of \$26,455.98 to Requestor and to all interested parties of the Nuisance Property to recover the City’s Costs incurred in abating the nuisance conditions and CCC violations on the Nuisance Property. (McKinnon Decl., ¶ 27.) Requestor timely filed a request for a Cost Recovery Hearing to dispute the amount of Costs sought to be recovered by the City and notice was sent to Requestor of the Cost Recovery Hearing scheduled for June 14, 2017. (McKinnon Decl., ¶ 28.)



### 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 to recover 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, CCC sections 1.10.020–1.10.090 are part of that statutorily authorized procedure established by the City. CCC section 1.10.050(B) requires the City to issue an invoice identifying all nuisance costs incurred in any nuisance abatement or code enforcement related activity on all interested parties and all parties with a recorded interest in the nuisance property. CCC section 1.10.020 states that the City's recoverable Costs include, but are not limited to, administrative expenses, administrative overhead, City staff time, City variable and fixed expenses, inspection costs, investigation costs, enforcement costs, abatement costs, litigation costs and fees, prosecution costs and fees, attorneys' costs and fees, cost recovery expenses, and collection costs incurred related to any nuisance abatement or code enforcement activity. CCC section 1.10.020 also states that any final administrative, civil, or criminal determination of responsibility for the existence of CMC violations is conclusive evidence of the City's right to recover its nuisance costs from the responsible party.

Here, the City has the authority to recover Costs incurred in abating the CCC violations on the Nuisance Property because the City incurred the Costs listed on the Cost Recovery Invoice due to the City's efforts to abate the nuisance conditions and CCC violations on the Nuisance Property. The City elected to pursue criminal prosecution in order to compel Requestor to cure the CCC violations on the Nuisance Property and the amount on the Cost Recovery Invoice reflect the total of the City staff costs, expenses, fees, and attorneys' fees incurred to abate said CCC violations through criminal prosecution. Requestor had possession and control over the Nuisance Property during the entirety of the nuisance abatement action by his own admission and by his abating the nuisance conditions and CCC violations on the Nuisance Property. Furthermore, Requestor plead guilty to nine misdemeanor CCC violations constituting conclusive evidence of the City's right to recover its nuisance costs from Requestor. For these reasons, Requestor is personally liable to the City for these costs and the City may specially assess the Nuisance Property for these Costs pursuant to CCC section 1.10.040.

Furthermore, the City followed the procedures outlined in the CCC and the regulations outlined in the California Government Code. As required by the CCC, the City issued an invoice to Requestor and all interested parties of the Nuisance Property in the amount of \$26,455.98. 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 CCC section 1.10.020 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 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**

Under CCC section 1.10.020, the City is entitled to recover all costs, expenses, and fees incurred related to any nuisance abatement or code enforcement activity. Pursuant to CCC section 1.10.020, 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 related to any nuisance abatement activity. Furthermore, CCC section 1.10.070(E) expressly states that all of the costs of the hearing shall be borne by the non-prevailing party.

As discussed above, the City is entitled to cost recovery in this case under CCC section 1.10.020 as Requestor is responsible for the nuisance conditions and CCC violations abated on the Nuisance Property and the City has complied with all of the requirements to recover its Costs. This Cost Recovery Hearing acts as a continuation of the nuisance abatement action instituted by the City as the subject matter directly relates to the abatement of nuisance conditions and CCC violations on the Nuisance Property through criminal prosecution. Furthermore, CCC section 1.10.070(E) specifically states that all costs of the hearing shall be borne by the non-prevailing parties and it is clear in this case that the City has a right to full cost recovery. CCC section 1.10.070(E) further states that if any cost recovery is upheld, even in part, the City shall be the prevailing party and therefore entitled to recover the City staff costs, expenses, fees, and attorneys' fees 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 CCC 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 \$5,206.85 plus Hearing Officer fees, in Costs. These Costs include the fee for the Hearing Officer and attorneys' fees and costs. The City has followed all of the procedures required by the CCC 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 \$26,455.98 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 \$5,206.85



plus Hearing Officer fees. Thus, Requestor must be ordered to pay a total of \$31,662.83 plus Hearing Officer fees.

- Attachments:
1. Government Code sections 38771–38775
  2. CCC sections 1.10.020–1.10.070(E)
  3. Declaration of Senior Code Enforcement Officer Alex Alarcon in Support of City's Cost Recovery Rights
  4. Declaration of Attorney McKinnon in Support of City's Cost Recovery Rights
  5. Hearing Officer Proposed Decision