TODD R. LEISHMAN, Bar No. 253169
todd.leishman@bbklaw.com
DYLAN VAUGHN GUNZEL, Bar No. 338745
dylan.gunzel@bbklaw.com
BEST BEST & KRIEGER LLP
2855 E. Gausti Road
Suite 400
Ontario, California 91761
Telephone: (909) 989-8584
Facsimile: (909) 944-1441

Attorneys for Plaintiff and Petitioner
City of Indian Wells

EXEMPT FROM FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

CITY OF INDIAN WELLS, a California municipal corporation, on behalf of the PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Petitioner,

v.

WENDY BURNS, as Trustee of the Revocable Robert Burns and Daphne Burns Family Trust; DAPHNE BURNS, as Trustee of the Revocable Robert Burns and Daphne Burns Family Trust; CASA DORADO AT INDIAN WELLS ASSOCIATION, a non-profit mutual benefit corporation; COACHELLA VALLEY WATER DISTRICT, a non-profit mutual benefit corporation; and DOES 1 through 25, inclusive,

Defendant(s) and Respondent(s).

Case No. CVPS2407347
Judge: Hon. Manuel Bustamante - Dept. PS2

STIPULATION TO THE APPOINTMENT OF A RECEIVER PURSUANT TO HEALTH AND SAFETY CODE § 17980.7

Action Filed: November 14, 2024
Trial Date: N/A

STIPULATION

WHEREAS, on November 14, 2024, Plaintiff CITY OF INDIAN WELLS ("Plaintiff") filed this action for Nuisance Per Se and Petition for Appointment of Receiver pursuant to Health and Safety Code 17980.7 against Defendants WENDY BURNS, DAPHNE BURNS, CASA DORADO AT INDIAN WELLS ASSOCIATION, AND COACHELLA VALLEY WATER DISTRICT ("Defendants" and collectively as "Parties") alleging substandard property maintenance constituting a public nuisance;

WHEREAS, CASA DORADO AT INDIAN WELLS ASSOCIATION ("Defendant HOA") denies the allegations and claims asserted in the Complaint to the extent Plaintiff claims the Defendant HOA created any nuisance, is responsible for the alleged condition of the subject property, and/or is responsible for any of costs, attorney's fees, damages or expenses incurred or to be incurred by Plaintiff or any receiver appointed;

WHEREAS, Plaintiff confirms that the Defendant HOA was only named in the Complaint due to the Defendant HOA's recorded interest in the subject property and that Plaintiff is not seeking any affirmative relief against the Defendant HOA nor is Plaintiff seeking any award for costs, damages, attorneys' fees, expenses, interest, receiver fees or costs, or statutory fines or penalties against the Defendant HOA;

WHEREAS, the non-defaulted Parties having met and conferred and in reliance on the foregoing representations wish to stipulate to the appointment of a receiver in the interest of costs and judicial economy;

WHEREAS, the Parties have agreed to the appointment of Fennemore Law Firm ("Receiver") as Court Appointed Receiver under Health and Safety Code section 17980.7(c) to carry out the rehabilitation of the property;

WHEREAS, the Receiver, being willing to accept appointment has provided his declaration and proposed order to be filed concurrently with this Stipulation.

IT IS HEREBY STIPULATED by and between the Parties, Plaintiff CITY OF INDIAN WELLS, a California municipal corporation, on behalf of the PEOPLE OF THE STATE OF CALIFORNIA ("Plaintiff"), and Defendant HOA, by and through their respective counsel of record, that in order to facilitate the exchange of information and documents which may be subject to confidentiality limitations on disclosure due to federal laws, state laws, and privacy rights, the Parties stipulate as follows:

(1) The Parties agree to the granting of Petition for Appointment of a Receiver under Health and Safety Code section 17980.7(c) by the Court signing the Proposed Order filed concurrently with this Stipulation;

(2) The Parties agree that the Defendant HOA will not be responsible for any costs, damages, attorneys' fees, expenses, interest, receiver fees or costs, and/or statutory fines or penalties sought by Plaintiff, if any, in the action;

(3) The Parties further agree that the Defendant HOA shall not be responsible for any fees or costs of the appointed Receiver; and

(4) All parties shall not interfere, obstruct, or otherwise hinder the duties of the receiver, this term shall not affect any Party's right to any lawful or justified objections filed against the Receiver's status reports, motions, and proposed orders brought throughout the receivership.

Dated: June 24, 2025

BEST BEST & KRIEGER LLP

By: ______________________
DYLAN VAUGHN GUNZEL
Attorneys for Plaintiff and Petitioner
City of Indian Wells

Dated:

DELPHI LAW GROUP, LLP

By: ______________________
CHRISTINA M. BAINE DEJARDIN
Attorneys for Defendants Casa Dorado at Indian Wells Association

TODD R. LEISHMAN, Bar No. 253169
Todd.leishman@bbklaw.com
DYLAN VAUGHN GUNZEL, Bar No. 338745
dylan.gunzel@bbklaw.com
BEST BEST & KRIEGER LLP
2855 E. Gausti Road
Suite 400
Ontario, California 91761
Telephone: (909) 989-8584
Facsimile: (909) 944-1441

Attorneys for Plaintiff and Petitioner
City of Indian Wells

EXEMPT FROM FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

CITY OF INDIAN WELLS, a California Municipal Corporation, on behalf of the PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Petitioner,

v.

WENDY BURNS, as Trustee of the Revocable Robert Burns and Daphne Burns Family Trust; DAPHNE BURNS, as Trustee of the Revocable Robert Burns and Daphne Burns Family Trust; CASA DORADO AT INDIAN WELLS ASSOCIATION, a non-profit mutual benefit corporation; COACHELLA VALLEY WATER DISTRICT, a non-profit mutual benefit corporation; and DOES 1 through 25, inclusive,

Defendant(s) and Respondent(s).

Case No. CVPS2407347

[PROPOSED] ORDER APPOINTING A RECEIVER PURSUANT TO HEALTH AND SAFETY CODE SECTION 17980.7(C) AND CODE OF CIVIL PROCEDURE SECTION 564(A) AND (B)(9)

[Filed concurrently with:
1.
2.
3.
4.
5.

Dept: 2
Judge: Hon. Manuel Bustamante

Action Filed: November 14, 2024
Trial Date:

///

///

///

///

///

ORDER

Plaintiff/Petitioner City of Indian Wells ("**City**") filed a petition with the Court for the appointment of a receiver ("**Petition**") under *Health and Safety Code* section 17980.7(c), regarding the real property located at 75711 Camino De Plata South, Indian Wells, California 92210, Assessor's Parcel No. 633-110-033 ("**Property**") [1], in case number CVPS2407347 in the Superior Court of California, County of Riverside, Palm Springs Courthouse, Department 2 ("**Court**"). The Property is legally described as follows:

> Parcel 1
>
> Lot 4 in Tract No. 4853, as shown by Map on file in Book 76, Pages 15 and 16 of Maps, Records of Riverside County, California.
>
> Parcel 2
>
> An undivided 1/34th interest in Lot 35 of said Tract No. 4853 for recreational purposes and the use of facilities located thereon.
>
> Parcel 3
>
> An undivided non-exclusive right of ingress and egress over the access easement and Lot 35 for automobile driveway and parking purposes, said easement being appurtenant to the land described in Parcel 1 above.
>
> APN 633-110-033

The Petition came on for hearing before this Court. All appearances were as noted in the Court's record. The Petition was made pursuant to *California Code of Civil Procedure* section 564(b)(3) and (b)(9) and *Health and Safety Code* section 17980.7(c).

The Court, having jurisdiction over the subject matter of the Petition and having considered the evidence and the memorandum of points and authorities submitted in support of the Petition, finds and orders as follows:

A. FINDINGS OF FACT

1. The Property is currently owned by Daphne M. Burns and Wendy L. Burns, Trustees of the Revocable Robert Burns and Daphne Burns Family Trust created November 1, 1993

[1] The term "Property" includes the real property and all easements, licenses, structures, fixtures, furniture, personal property, rights, choses in action, development rights and permits, and other tangible and intangible property associated therewith or located thereon.

(collectively, "**Owner**") and is subject to various claims and other interests held, claimed to be held, or administered by the other named defendants/respondents (the Owner and the other named defendants/respondents, collectively, "**Defendants**").

2. The Property is substandard as defined by *Health and Safety Code* section 17920.3 and section 17980.7 and is a public nuisance. The Property has been and is now maintained in a manner that violates various provisions of the Indian Wells Municipal Code and the building standards published in the State Building Standards Code (as defined by *Health and Safety Code* section 18909).

3. The structure on the Property is a "substandard building" as defined by *Health and Safety Code* section 17920.3. The Property's substandard conditions exist to an extent that substantially endangers the life, limb, health, property, safety, and/or welfare of the residents and/or the general public.

4. The City, as a local enforcement agency, properly issued an order or notice to repair or abate ("**Notice and Order**") in accord with *Health and Safety Code* section 17980.6.

5. Defendants failed to comply with the Notice and Order within a reasonable time. Defendants were afforded a reasonable opportunity to correct the conditions cited in the Notice and Order.

6. Defendants have been afforded all procedural due process rights guaranteed by the California Constitution and the United States Constitution, including receipt of the Notice and Order and an adequate and reasonable period of time to comply with the Notice and Order.

7. The City posted and provided notice of the Petition described in *Health and Safety Code* section 17980.7(c) no less than three (3) days prior to the filing of the Petition.

8. The Property's substandard conditions will likely persist unless the Court appoints a receiver to take possession of the Property and undertake its rehabilitation.

9. *Health and Safety Code* section 17980.7(c), *Code of Civil Procedure* section 564, and the Court's inherent equitable power authorize the Court to appoint a receiver to take possession of the Property and abate its substandard and hazardous conditions.

10. Defendants were properly noticed and served with the Petition and were provided a reasonable opportunity to be heard in connection with the Petition.

11. The City's receiver-nominee, GS Strategies, Inc., and its representative, Kevin K. Randolph, have the demonstrated capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the Property.

12. The Court finds that, given the severity of the violations and amount of work necessary to abate the violations and substandard conditions at the Property, the appointment of a receiver with the powers set forth herein is a necessary measure to abate the violations and substandard conditions.

13. Good cause exists for appointment of a receiver to protect public health and safety, to correct the Property's substandard conditions, and to preserve the Property.

B. APPOINTMENT OF RECEIVER AND THE RECEIVER'S PLENARY POWERS

GS Strategies, Inc. ("**Receiver**") is appointed receiver of the Property and given those powers described in *Code of Civil Procedure* sections 564 through 570, *Health and Safety Code* section 17980.7(c)(4), any other applicable law, this Order, and further orders of the Court. Kevin K. Randolph is designated as the Receiver's representative with the authority to act on the Receiver's behalf. The Receiver will: (a) execute and file with the Court the receiver's oath specified by *Code of Civil Procedure* section 567(a); and (b) file with the Court the undertaking required by *Code of Civil Procedure* section 567(b) in the amount of $5,000.

C. RECEIVER'S SPECIFIC POWERS

In addition to the plenary powers described in Section B of this Order, the Receiver is given the following specific powers:

1. To immediately take full and exclusive possession and control of the Property, including the tangible and intangible personal property located in or about the Property. The Receiver may authorize the City's code enforcement personnel and law enforcement personnel to enter the exterior and interior of the Property and its structures (including occupied and unoccupied residences) for the purposes of inspecting the Property and undertaking any other investigations concerning the Property's condition and compliance with applicable State and local law. The Clerk

of the Court is authorized and directed to issue to the Receiver a writ of possession or execution entitling the Receiver to obtain exclusive possession and control of the Property and to remove any and all known and unknown occupants (including the Defendants and any other known or unknown occupants) without the need to file an unlawful detainer action or obtain an eviction or ejectment judgment. Any law enforcement agency is authorized to serve and enforce any writ of possession or execution so issued to the Receiver. The Receiver's right to possession arises under its inherent and statutory powers as a receiver and is not predicated on the application of unlawful detainer statutes or case law. The Receiver is not required to comply with those requirements and procedures applicable to unlawful detainer proceedings, including, without implied limitation, the serving of a prejudgment claim of right to possession pursuant to *Code of Civil Procedure* section 415.46.

2. To manage the Property and pay operating expenses, taxes, insurance, utilities, and maintenance expenses.

3. To collect all rents and income from the Property, to sell or dispose of any personal property that the Receiver has declared abandoned in accord with this Order or applicable law, to collect any debts associated with the Property, to invest all funds on hand, and to use these funds to pay for the costs of operating, managing, maintaining, or rehabilitating the Property.

4. To investigate the Property's condition and expected post-rehabilitation market value and determine whether it is economically and practically feasible to rehabilitate the Property or whether demolition or some other method of remediating the Property's deficiencies and violations is more appropriate.

5. To prepare a plan ("**Remediation Plan**") to: (a) rehabilitate the Property and correct the violations and substandard conditions identified in the Notice and Order, as well as those violations and substandard conditions that may be discovered during the course of the Receiver's or City's further inspections, so as to render the Property as decent, safe, sanitary, and marketable housing; (b) abate the Property's violations and substandard conditions identified in the Notice and Order through demolition or other economically and practically feasible means; or (c) provide for the Property's rehabilitation by sale to a pre-qualified buyer that will purchase the Property in its

As-Is condition and thereafter complete the rehabilitation or demolition under the Receiver's supervision. The Remediation Plan will include provisions for financing the work necessary to abate the Property's violations and substandard conditions and other work authorized by this Order. The Remediation Plan may include provisions for financing all or a portion of the Receiver's Approved Expenses and the City's Approved Expenses (as those terms are defined in Sections E and F, below).

6. To solicit one or more proposals from licensed California contractors, service providers, and As-Is buyers to carry out the actions specified in the Remediation Plan and to select the proposal that the Receiver determines is in the receivership estate's best financial and practical interests to recommend to the Court, taking into account cost, financial value to the receivership estate, capacity, qualification, and demonstrated competence to carry out the actions specified in the Remediation Plan.

7. To immediately record one or more liens (each, a "**Receiver's Lien**") against the Property to secure the repayment of the Receiver's Approved Expenses and the City's Approved Expenses (as those terms are defined in Sections E and F, below), in accord with *Health and Safety Code* section 17980.7(c)(4)(G). Each Receiver's Lien will be a lien on the Property prior and superior to all pre-existing liens and encumbrances (including any claim or interest held by any Defendant) other than delinquent property taxes and state and federal tax liens.

8. Subject to the Court's approval, to borrow funds (each such borrowing, a "**Loan**") from public or private entities selected by the Receiver in its discretion (each, a "**Lender**") and to issue and record one or more Receiver's certificates of indebtedness (each, a **"Receiver's Certificate**") and deeds of trust (each, a "**Receiver's Deed of Trust**") to evidence and secure repayment of the borrowed funds. Each Receiver's Certificate and Receiver's Deed of Trust will be a lien on the Property prior and superior to all other liens and encumbrances, including any claim or interest held by any Defendant, and any claim or interest of any lienholder or other encumbrancer, whether currently of record or recorded after the date of this Order, but excluding liens for state and federal taxes and delinquent property taxes. The Court authorizes (but does not

require) the City and the Receiver to enter into a standard indemnity agreement if necessary to meet title company underwriting requirements for insuring the Receiver's Deed of Trust.

9. The material terms of each Loan will be the following: (a) the Lender will be entitled to an origination fee equal to five and one-half percent (5.5%); (b) the Loan will accrue simple interest at the rate of twelve percent (12%) per annum, commencing on the disbursement date and continuing thereafter until paid; (c) repayment of the Loan will be due and payable on the date that is the earlier of: (i) the date of the close of the escrow for the first sale of the Property, and (ii) the twelve (12)-month anniversary of the disbursement date, subject, however, to the extension provisions set out in immediately following (d); (d) if repayment has not occurred by the twelve (12)-month anniversary of the distribution date, repayment will be automatically extended for up to three (3) additional one (1) month periods and the Lender will be entitled to an extension fee equal to one percent (1%) of the then-outstanding balance of the Loan for each one (1) month extension; and (e) no periodic payments of principal or interest will be due.

10. In accord with Section C.8, the Court hereby authorizes the Receiver to issue an initial Receiver's Certificate in an amount not exceeding Thirty Thousand Dollars ($30,000) and a Receiver's Deed of Trust to pay for the initial costs of securing the Property, stabilizing the Property, removing trash and debris, and other initial Receiver's Expenses. No further Court approval of the initial Receiver's Certificate and Receiver's Deed of Trust described in this Section C.10 is required.

11. On behalf of the receivership estate, to enter into contracts with third parties for labor and services required in connection with receivership activities authorized by this Order, including the following: (a) maintenance and repair companies or personnel; (b) licensed engineers and other building professionals; (c) banks, lending institutions, public entities, and private lenders; (d) licensed architects and other design professionals; (e) licensed general contractors, subcontractors, suppliers and manufacturers; (f) property and construction managers; (g) escrow and title companies; (h) real estate appraisers; (i) relocation consultants; (j) accountants; (k) real estate agents and brokers; and (l) locksmiths and security companies.

12. On behalf of the receivership estate, to: (a) apply for and obtain permits and land use and other governmental approvals necessary to implement the Remediation Plan; (b) exercise any development rights, entitlements and permits currently associated with the Property; and (c) to seek reimbursement from all federal, state and local public agencies willing to provide funds for the Property's remediation and enter into any agreements on behalf of the receivership estate required to receive those funds.

13. On behalf of the receivership estate, to: (a) execute those instruments and agreements necessary or convenient to obtain those bonds and other sureties necessary or convenient to conduct receivership activities, including bonds and sureties related to the curing or mitigation of mechanics' liens and other encumbrances on title to the Property; (b) use receivership estate funds to pay the costs of those bonds and sureties and to pledge receivership estate assets as collateral in connection with those bonds and sureties; and (c) execute indemnities in favor of title companies and other entities as necessary or convenient to the issuance of title insurance policies needed for the issuance of the Receiver's Certificates and Receiver's Deeds of Trust or for the sale of the Property (if such sale is authorized by the Court).

14. To place long-term owner-occupancy and income restrictions on the Property if: (a) required under the programs of those private lenders or government housing finance agencies providing funding for the Remediation Plan; or (b) the Receiver deems the restrictions are necessary or desirable to abate, and maintain abated, the nuisance conditions on the Property.

15. To (a) temporarily or permanently displace the Property's occupants if necessary, in the Receiver's discretion, and (b) pay relocation expenses as required by *Health and Safety Code* section 17980.7(c)(6), or, if not required by *Health and Safety Code* section 17980.7(c)(6), as determined by the Receiver in its discretion.

16. To prepare and distribute those periodic reports required by *California Rules of Court* rule 3.1182.

17. To declare as abandoned any personal property (including vehicles and vessels) remaining at the Property upon the Receiver's taking possession of the Property and to either store or sell that personal property in accord with any applicable legal requirements. If the Receiver, in

its discretion, determines that the personal property lacks sufficient value to cover the costs of sale or storage, then the Receiver may discard the personal property.

18. To apply on an *ex parte* basis to the Court for any of the following: (a) approval of the Receiver's requests for interim payment of the Receiver's Approved Expenses and the City's Approved Expenses; (b) approval of the Remediation Plan; (c) approval of Receiver's Certificates of Indebtedness and Receiver's Deeds of Trust (other than the initial Receiver's Certificate of Indebtedness and Receiver's Deed of Trust described in Section C.10 of this Order, for which no further Court approval is required); (d) approval of the Property's sale; (e) approval of the distribution of proceeds from the Property's sale; (f) orders to enable the Receiver to properly perform its duties or to address unforeseen circumstances that arise; and (g) for further instructions.

19. To take any action that is implied from the powers specifically given to the Receiver or that is necessary or convenient to the exercise of those powers.

D. RECEIVER'S IMMUNITIES

To the greatest degree allowed under *California Code of Civil Procedure* sections 564 through 570, *California Health and Safety Code* section 17980.7(c), and other applicable law, the Receiver, the Receiver's representative, and their respective officers, employees, attorneys, agents, consultants, contractors, and affiliated entities (all of the foregoing, including the Receiver, individually, a "**Receiver Party**," and collectively, the "**Receiver Parties**") are not personally responsible for receivership-related obligations and liabilities, including the following:

1. Obligations and liabilities incurred in connection with receivership activities or on behalf of the receivership estate that are within the express or implied scope of the Receiver's authority under this Order, subsequent Court orders, or any applicable law.

2. Obligations and liabilities relating to the Property that were incurred prior to the Receiver's appointment.

3. Obligations and liabilities arising out of or resulting from the current or future presence or release of any Hazardous Substances on, from, or under the Property. Hazardous Substances include any substance, material, or waste that is included within the definitions of

"hazardous substances," "hazardous materials," "hazardous waste," "regulated waste," or words of similar import in any federal, state, or local law.

4. Obligations and liabilities arising under or related to any Receiver's Certificate of Indebtedness or Receiver's Deed of Trust. All obligations and all liabilities arising under any Receiver's Certificate of Indebtedness, Receiver's Deed of Trust, and all other agreements entered into by the Receiver on behalf of the receivership estate are unconditionally non-recourse to the Receiver Parties.

5. Obligations and liabilities for the return of any security deposit that is not actually received by the Receiver.

In carrying out their duties and functions under this Order, the Receiver and the Receiver Parties are fulfilling quasi-judicial functions integral to the judicial process as an arm of the Court and are entitled to quasi-judicial immunity. When taking actions specifically approved or ordered by the Court, the Receiver and the Receiver Parties are entitled to absolute immunity. *Holt v. Brock* (2022) 85 Cal.App.5th 611; *Howard v. Drapkin* (1990) 222 Cal.App.3d 843; see also *In Re Voyager Digital Holdings, Inc.*, 649 B.R. 111 (Bankr. S.D.N.Y., 2023).

The filing of any action or proceeding by any person or entity, including by any person or entity not a party to this action, against any Receiver Party at any time, including after the Receiver's discharge, that is based in whole or in any part on any Receiver Party's actions or failures to act in the course of the conduct of the receivership and regardless of whether the action is founded upon contractual, tort, or any other legal theory, requires this Court's prior permission. If a Receiver Party is required at any time following the Receiver's discharge to provide evidence, respond to discovery, or testify with regard to any matter related to this action or any Receiver Party's actions during the course of the Receiver's appointment, the Receiver Party and its legal counsel will be compensated at his, her, or its then-current hourly rates, plus expenses.

E. <u>CITY'S FEES AND COSTS</u>

The City, as the prevailing party under *California Health and Safety Code* section 17980.7(c)(11) and (d)(1), *California Code of Civil Procedure* section 1033.5(a)(10), *California Government Code* section 38773.5(b), and the Indian Wells Municipal Code, is, subject to Court approval, entitled to recover all of its hard costs, administrative enforcement costs and attorney's fees, and administrative fines and penalties (collectively, as so approved by the Court, the "**City's Approved Expenses**").

F. RECEIVER'S COMPENSATION

1. The Receiver will be compensated for its services on behalf of the receivership estate as follows: (a) for non-legal work related to the administration of the receivership estate and management of the Property, the Receiver will be compensated at the rate of $320 per hour, plus (b) for non-legal work related to rehabilitation construction or demolition oversight, the Receiver will be compensated in a fixed amount equal to eight percent (8%) of the Court-approved rehabilitation construction or demolition costs in lieu of an hourly rate. The components of the Receiver's compensation described in (a) and (b), preceding, are independent and non-cumulative, i.e., the compensation described in (a) will be earned only for Property administrative and management services and the compensation described in (b) will be earned only for rehabilitation construction or demolition oversight services. The sum of the compensation components described in (a) and (b), preceding, is referred to in this Order as the "**Receiver's Management Fees**."

2. The Receiver may, but is not obligated to, advance funds to pay for third-party expenses incurred in connection with receivership estate activities, including third-party expenses related to: the exercise of those powers described in Section C of this Order; copying; long distance telephone calls; courier services; expenses to secure the Property; insurance; cleanup and disposal costs; storage costs; locksmith services; relocation expenses; bond expenses; utilities; property maintenance; debris removal; and all other third-party receivership-related expenses (collectively, "**Receiver's Costs**"). If the Receiver advances funds for Receiver's Costs, the Receiver may reimburse itself for such funds from any available source of receivership estate funds as they are available.

3. Pursuant to *California Rules of Court* rule 3.1180, and because the Receiver is a corporation and must be represented by licensed attorneys, the Receiver is authorized to retain the law firm of Fennemore Craig, P.C. ("**Fennemore**") to provide legal services on behalf of the receivership estate. The Fennemore attorneys and paraprofessionals who will be primarily (but not

exclusively) responsible for providing legal services to the receivership estate, and their corresponding billing rates, are set forth as follows:

Attorney:	**Billing Rate**
Kevin K. Randolph	$650
Marlene L. Allen Murray	$620
David Werner	$560
Rachel Greenberg	$420
Roi Wallace	$375
Paraprofessionals:	
Sandra Walsh	$300

The Receiver may also pay Fennemore for all reasonable and customary incidental costs and expenses charged by Fennemore in connection with its legal representation of the Receiver and those costs and expenses (if any) will be considered as Receiver's Costs. The Receiver may, subject to the Court's prior approval, retain other legal counsel to represent it if the Receiver determines that it requires specialized legal services not available through Fennemore or that other legal counsel may more effectively or efficiently represent the Receiver's or the receivership estate's interests. Unless otherwise authorized by the Court, the Receiver may not compensate other legal counsel at rates exceeding those payable to Fennemore. The sum of all legal fees incurred by the Receiver in connection with legal matters affecting the receivership estate is collectively referred to in this Order as the "**Receiver's Legal Fees**."

4. The Receiver's Management Fees, Receiver's Costs, and Receiver's Legal Fees are collectively referred to in this Order as the "**Receiver's Expenses**." The Receiver's Expenses include fees and costs incurred: (a) before the Receiver was appointed, if related to the inspection and evaluation of the Property's suitability for receivership, including preparing pre-appointment documents and attending pre-appointment Court hearings; (b) during the pendency of the Receiver's appointment; and (c) in the defense or prosecution of any appeal of any order, judgment or other ruling or determination related to or arising out of the receivership case, regardless of whether initiated during the Receiver's appointment or after the Receiver's discharge, and regardless of whether the appeal is instituted by the Receiver, the Defendants, or any other party, including appeals related to: (i) this Order; (ii) any order approving the Remediation Plan; (iii) any

order authorizing the sale of the Property; (iv) any order approving the Receiver's Expenses; (v) any order approving the Receiver's final accounting and report; and (vi) any order discharging the Receiver and exonerating the Receiver's bond.

5. The Receiver must reasonably document all of the Receiver's Expenses. All of the Receiver's Expenses are subject to the Court's approval and, as so approved, are referred to in this Order as the "**Receiver's Approved Expenses**." With the Court's approval, the Receiver will be entitled to interim payments toward the Receiver's Approved Expenses, as provided by *California Rules of Court* rule 3.1183(a).

6. The Receiver's Expenses will be set out in each periodic report prepared by the Receiver in accord with *California Rules of Court* rule 3.1182. Unless objections to the Receiver's Expenses set out in a periodic report are made within the period allowed by *California Rules of Court* rule 3.1183(b), all objections that could have been made will be deemed waived unless good cause is shown.

G. PROPERTY DISPOSITION

1. The Receiver may apply to the Court for approval ("**Sale Application**") to sell the Property in the condition (vacant land, As-Is, or fully rehabilitated) described in the Court-approved Remediation Plan ("**Proposed Condition at Sale**"), free and clear of all pre-existing liens and encumbrances, except for delinquent real property taxes and state and federal tax liens. All pre-existing liens and encumbrances, except those for delinquent property taxes and state and federal tax liens, will be automatically stripped from the Property's title upon the sale of the Property and will attach to the net sale proceeds in the same priority order as they held against the Property prior to being stripped. The Receiver may sell the Property pursuant to *Code of Civil Procedure* section 568.5, by open market sale, or such other method approved by the Court, upon terms and conditions acceptable to the Receiver and approved by the Court. The Receiver may, prior to the Court's approval of the Sale Application, enter into a purchase and sale agreement with any offeror that the Receiver determines, in its discretion, is qualified to purchase the Property in its Proposed Condition at Sale. However, the effectiveness of any purchase and sale agreement that is executed

before the Court's approval of the Sale Application will be contingent on the Court's approval of the Sale Application.

2. If there is more than one offer to purchase the Property, the Receiver may select the offeror whom the Receiver determines, in its discretion, to be most qualified to complete the purchase and fulfill the buyer's obligations under the purchase and sale agreement to recommend to the Court. All sales are subject to overbid until the Court approves the Sale Application. No overbid will be considered unless it exceeds the sale price originally recommended by $5,000 or more. All overbids will require a good faith deposit of no less than ten percent (10%) of the overbid price, which will be creditable to the purchase price upon the close of escrow, but otherwise non-refundable to the overbidder except in the event of the Receiver's default under the overbid purchase and sale agreement.

3. The Receiver may broker the sale or lease of the Property. The Receiver may pay reasonable and customary escrow and title charges and a sales commission (including to itself if it acts in its capacity as a broker with respect to the Property's sale or lease) not exceeding six percent (6%) of the sales price or lease revenue, unless a different rate is authorized by the Court or required by law.

4. Subject to the Court's approval, the Receiver will distribute the "net sale proceeds" generated from the Property's sale in accordance with *California Code of Civil Procedure* section 701.810. As used in this Order, the term "net sale proceeds" means the amount of the Property's gross sale proceeds remaining after deducting the following: escrow and title insurance costs and expenses; sales commissions; amounts paid to the holders of any Receiver's Certificates of Indebtedness; amounts paid to cause the Property's condition of title to be as required by the purchase and sale agreement; delinquent property taxes and assessments; state and federal tax liens; other claims with a statutory priority; and all other reasonable and customary charges and expenses incurred by sellers of similar real property in the Property's locale.

5. If receivership estate proceeds are insufficient to satisfy all receivership estate obligations, including the Receiver's Approved Expenses and the City's Approved Expenses, then in addition to granting relief against the Owner under *Health and Safety Code*

section 17980.7(c)(15), the Court may order any one or more of the Defendants to pay any shortfall. The Court may order that each Defendant is jointly and severally liable with the other Defendants to the Receiver and the City for the full amount of the shortfall. The Receiver and the City may collect that shortfall in any manner authorized by law.

6. To pay the City's Approved Expenses as provided by *Health and Safety Code* section 17980.7 out of the net sale proceeds with the same priority as the Receiver's Lien, as provided by *Health and Safety Code* section 17980.7(c)(4)(G). The City may make demands upon the Receiver for payment of the City's Approved Expenses and, if necessary, the Receiver will seek the Court's approval to pay the City.

H. AFFIRMATIVE INJUNCTIVE RELIEF

Each Defendant, its partners, assignees, successors, representatives, managers, agents, attorneys, employees, and all other persons acting under or in concert with each Defendant (all of the foregoing, collectively, "**Enjoined Parties**"), are ordered to:

1. Immediately relinquish and turn over possession of the Property to the Receiver. Any current, lawful occupants of the Property may continue to occupy the Property unless and until the Receiver, in its sole discretion, determines that their relocation is necessary or convenient for the carrying out of the Receiver's powers and responsibilities.

2. Immediately turn over to the Receiver all keys to the Property and all books, records, agreements, contracts, policies of insurance, and other instruments pertaining to the Property.

3. Immediately inform the Receiver as to the nature and extent of insurance coverage on the Property and have the insurance policies endorsed to name the Receiver as an additional insured.

4. Immediately turn over to the Receiver all information, documents, records, or other information that the Receiver requests, including, but not limited to, all books and records pertaining to the Property's real estate tax bills and utility bills, wherever located and in whatever mode maintained, including information contained on computers and all software relating thereto, as well as any permits, government approvals and other information that pertains to the Property.

5. Immediately forward to the Receiver all rents, profits, insurance proceeds, or other income of any type that may be received in connection with the Property.

6. Within five (5) days following the Receiver's request, execute (in recordable form, if necessary) and deliver to the Receiver all documents necessary or convenient (as determined by the Receiver in its sole discretion) to implement the actions authorized by this Order or within the Receiver's power to undertake, including rescissions of any notices of default or notices of trustee's sale.

7. Any utility will apply any deposit which it is holding for utility service to the Property as a deposit for continued utility service while the Receiver is operating the Property and may not require any additional deposit from the Receiver and may not terminate utility service to the Property because of the Receiver's failure to post a deposit.

8. Immediately following the Receiver's request, provide the Receiver with all tax identification numbers (e.g., Social Security Numbers and Employer Identification Numbers) used in connection with the ownership or operation of the Property or operation of the Property or required for the Receiver to make proper filings with federal and state taxing authorities. No funds will be paid to any Defendant or any third party unless the Defendant or third party has provided the Receiver with properly completed tax forms, including a Form W-9, or other taxpayer identification information. The Receiver is authorized to use the tax identification numbers solely in connection with receivership estate matters. The Receiver is authorized to communicate and negotiate with federal, state, and local taxing authorities on behalf of the Owner and the Property. The Receiver is authorized to execute such forms and consents and make such compromises on the Owner's behalf as necessary or convenient to facilitate the Receiver's powers and duties respecting the receivership estate and/or the sale of the Property.

I. PROHIBITORY INJUNCTIVE RELIEF

The Enjoined Parties are prohibited from:

1. Demanding, collecting, receiving, or diverting any rents, profits, insurance proceeds, or other income of any type from the Property.

2. Except as may occur in connection with the Enjoined Parties' exercise of the right to petition the Courts for relief, obstructing or interfering with, directly or indirectly, the Receiver's conduct of the receivership.

3. Encumbering, mortgaging, liening, leasing, renting, gifting, conveying, selling, listing, marketing for sale, or transferring the Property or any interest in it.

4. Canceling, reducing, or modifying any existing insurance coverage with respect to the Property.

5. Entering upon the Property or into any structure located on the Property without the Receiver's or the Court's prior written consent.

6. Preventing, impairing, restricting, or otherwise interfering with the Receiver's and its agents', contractors', and representatives' entry onto the Property, including any occupied or unoccupied residence(s) thereon.

7. Commencing or continuing any judicial or non-judicial foreclosure action, trustee's sale, or similar process, including filing any notice of default or notice of trustee's sale.

8. Commencing or continuing any action which impairs or precludes the Receiver's ability to obtain any policy of title insurance needed to implement the actions authorized by this Order or any subsequent Court order.

9. Removing any furniture, fixture, or item of personal property from the Property without the Receiver's prior written consent.

10. Claiming any deduction with respect to state income taxes for interest, taxes, expenses, depreciation, or amortization paid or incurred with respect to the Property during the pendency of the receivership.

J. <u>ADDITIONAL TERMS</u>

1. The Receiver and the parties to this action may, at any time, apply to this Court for further instructions or orders and for further powers necessary to enable the Receiver to perform the Receiver's duties properly.

2. This Order is immediately effective. In addition, this action is continued generally and the Court reserves full jurisdiction over such other proceedings as may be necessary to

effectuate the provisions of this Order or any subsequent Court order and to award such other relief recoverable under *Health and Safety Code* section 17980.7, et seq., or any other provision of law, including, but not limited to, the award of attorneys' fees and costs.

3. The receivership is ongoing until further order of this Court.

Date: 07/16/2025

JUDGE OF THE SUPERIOR COURT