CITY OF MODESTO, CALIFORNIA
Community and Economic Development Department
Building Safety Division
P.O. Box 642
1010 Tenth Street, Suite 3100
Modesto, California 95353

Telephone: (209) 577-5232
Facsimile: (209) 571-5135
TDD: (209) 526-9211

NOTICE OF PASSAGE OF RESOLUTION

MARCH 1, 2019

TO: **KHATRI INCORPORATED**
ATTN: JOHNNY KHATRI AND NEAL KHATRI
1608 SUNRISE AVENUE, SUITE 6
MODESTO, CA 95350

UNITED RESORTS LLC
ATTN: SHAFI AHMED/CEO
1525 MCHENRY AVENUE
MODESTO, CA 95350

PARAG M. MEHTA
50 GLENLAKE PARKWAY, SUITE 350
ATLANTA, GA 30328

VIA: **CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

RE: **THE CONDITIONS CAUSED BY THE LACK OF BUILDING MAINTENANCE AND INSECT INFESTATION TO THE INDIVIDUAL UNITS OF THE BUDGETEL MOTEL LOCATED ON THE PROPERTY WITH THE ADDRESS OF 1525 MCHENRY AVENUE, MODESTO, CALIFORNIA; CITY OF MODESTO CODE ENFORCEMENT CASE NO. COD2018-40002**

PLEASE TAKE NOTICE that on February 28, 2019, the Board of Building Appeals of the City of Modesto conducted a public hearing regarding the real property situated in the City of Modesto commonly referred to as 1525 McHenry Avenue (hereinafter referred to

collectively as the "premises"). Following the public hearing, the Board adopted Resolution No. 2019-06, a true and correct copy of which is attached to this Notice.

THE BOARD ACCEPTS THE CITY STAFF RECOMMENDATION IN ITS ENTIRETY AND;

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2019-06, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE.

THE BOARD UPHOLDS THE NOTICE AND ORDER DATED SEPTEMBER 13, 2018, AND ORDERS THE PROPERTY OWNER TO ABATE THE NUISANCE CONDITIONS AS DIRECTED IN SAID NOTICE AND ORDER DATED SEPTEMBER 13, 2018.

THE BOARD APPROVES CIVIL PENALTIES IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS ($100,000.00) AND HEARING COSTS IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED THIRTY-EIGHT DOLLARS AND NINETY-EIGHT CENTS($1,232.98) AS STATED IN THE COST REPORT UNDER EXHIBIT B OF THE CIVIL PENALTY HEARING PACKET AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION AND A LIEN AGAINST THE OWNER AND PROPERTY.

IF THE PROPERTY OWNER FAILS TO ABATE THE NUISANCE CONDITIONS WITHIN THIRTY (30) CALENDAR DAYS FROM THE POSTING OF COPIES OF THIS RESOLUTION, THE CITY OF MODESTO SHALL BE DEEMED TO HAVE ACQUIRED JUIRSICTION TO ABATE SUCH NUISANCE AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION AND A LIEN AGAINST THE OWNER AND PROPERTY.

PLEASE TAKE FURTHER NOTICE that the owners of the premises or any other interested person having any objections, or feeling aggrieved at any proceeding taken by the City of Modesto in ordering abatement of the nuisance, must bring an action in a court of competent jurisdiction within thirty (30) calendar days after the date of posting on the premises the Notice of Passage of the Resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution, otherwise all objections will be deemed to have been waived.

Dated: MARCH 1, 2019

Oscar Diaz

OSCAR DIAZ
SECRETARY TO THE BOARD

OD:cp
Attachment

cc: KHATRI INCORPORATED
ATTN: JOHNNY KHATRI AND NEAL KHATRI
1608 SUNRISE AVENUE, SUITE 6

MODESTO, CA 95350

UNITED RESORTS LLC
ATTN: SHAFI AHMED/CEO
1525 MCHENRY AVENUE
MODESTO, CA 95350

PARAG M. MEHTA
50 GLENLAKE PARKWAY, SUITE 350
ATLANTA, GA 30328

City Attorney
Oscar Diaz, Chief Building Official
Bert Lippert, Building Safety Program Coordinator
File

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2019-06

A RESOLUTION DECLARING THE BUILDING LOCATED AT 1525 MCHENRY AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) CALENDAR DAYS

WHEREAS, Khatri Incorporated, Johnny and Neal Khatri have title to and are the recorded owner of property located at 1525 McHenry Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the "premises"; and

WHEREAS, the premises at 1525 McHenry Avenue consists of the conditions caused by the lack of building maintenance and insect infestation to the individual units of the Budgetel Motel; and

WHEREAS, the Chief Building Official of the City of Modesto is authorized by the Building Maintenance Code of the City of Modesto to enforce all provisions of the Code including authority to inspect any building or structure and order that any such building or structure determined under the Building Maintenance Code to be Unsafe and Unfit for Human Occupancy be declared a public nuisance and order the recorded owner to abate the nuisance conditions by demolition of the unsafe structures and the removal of the junk, trash, debris and weeds on the property; and

WHEREAS, inspection of the premises was conducted by City of Modesto Building Safety Division personnel on April 20, 2018; and

WHEREAS, a Notice and Order dated September 13, 2018, was issued by the Chief Building Official and ordered the property owner (s) to contact the Building Safety Division of the City of Modesto; and

YOU ARE HEREBY ORDERED to correct the violations by taking the following affirmative action by completing the following actions:

EXTERMINATION OF BED BUGS & COCKROACHES:

1. If you intend to bring your property, motel structure, and individual units into compliance with the Modesto Municipal Code, you are required to contact the services of a licensed extermination company to provide a report on the extent of bed bug and cockroach infestation to the property, motel structure, and individual units and the plan to eradicate them in an approved process that will not be injurious to human health within thirty (30) calendar days of the date of this Notice and Order; and

2. If the extermination of bed bugs and cockroaches is required by the report then following their eradication, provide the name of the extermination company who will provide continued maintenance to prevent re-infestation within thirty (30) calendar days of the date of the Notice and Order; and

3. Guests and long-term occupants are required to cooperate with the extermination company by allowing access to their individual unit, cleaning their unit, providing

approved storage methods and containers, and removing all garbage and trash to an approved location as requested by the extermination company within thirty (30) calendar days of the date of the Notice and Order; and

4. The guests and long-term occupants shall be responsible for the continued maintenance of their individual units to prevent re-infestation of bed bugs and cockroaches; and

BUILDING MAINTENANCE CONDITIONS REQUIRING REPAIR:

5. If you intend to bring the property, motel structure, and individual units into compliance with the Modesto Municipal Code, you are required within seven (7) calendar days of the date of this Notice and Order to contact Thomas L. Trimberger, Chief Building Official of the City of Modesto, to schedule a meeting to state your intent to bring the property, motel structure, and individual units into compliance with the Modesto Municipal Code by repair and abatement beginning thirty (30) calendar days from the date of this Notice and Order; and

6. Following your meeting with Thomas L. Trimberger, Chief Building Official of the City of Modesto, but within seven (7) calendar days of the date of this Notice and Order you are required to contact Bert Lippert, Building Safety Program Coordinator, to schedule inspections of the property, motel structure, and individual units completing the required inspections within fourteen (14) calendar days from the date of this Notice and Order; and

7. Within fourteen (14) calendar days from the date of this Notice and Order provide a report(s) from a licensed contractor indicating the electrical, mechanical, and plumbing systems are in good working order; and

8. You are required within fourteen (14) calendar days from the date of this Notice and Order to provide a report(s) from an licensed environmental company to address any mold found in the bathrooms of each individual unit and if necessary, provide a report for its removal and prevention; and

9. You are required to provide a report from a Certified Access Specialist within thirty (30) calendar days of the date of the Notice and Order.

   A comprehensive list of CASp Inspectors can be found online at https://www.apps.dgs.ca.gov/casp/casp_certified_list.aspx

10. Provide the Modesto Police Department an action plan that will discourage all criminal and nuisance creating behaviors at the above-referenced location within ten (10) calendar days of the date of this Notice and Order; and

11. Provide your current housekeeping schedule for rooms occupied by transient guests and long-term occupants, curfew policy for guests, long-term occupants and their visitors, policy for number of individuals allowed to stay in each individual room, policy for animals, and maximum number of personal items allowed to be stored

within each individual unit, including bicycles and shopping carts within twenty (20) calendar days of the date of this Notice and Order; and

12. You are required within twenty (20) calendar days of the date of this Notice and Order to contact Thomas L. Trimberger, Chief Building Official of the City of Modesto, a second time to schedule a second meeting to provide the completed forms detailing the dates for start of construction and progress dates for the repairs to the property, motel structure, and individual units based upon Mr. Lippert's inspections, report(s) from the licensed contractors indicating the electrical, mechanical, and plumbing systems are in good working order, the report(s) from an licensed environmental company that addresses mold, and the plan from a licensed extermination company on the extent of bed bug and cockroach infestation to the property, apartment buildings, and individual dwelling units and the plan to eradicate them. This schedule must be approved by the Building Official before the required permits can be issued; and

13. Following approval by the Chief Building Official of the construction schedule for the repairs to the property, motel structure, and individual units, you are required to meet the agreed upon dates for start of construction, progress dates, and final inspection approval by the Building Safety Division.

If you have any questions regarding this Order, please contact Bert Lippert, Building Safety Program Coordinator, at 209-571-5810. To schedule the two (2) meetings with Thomas L. Trimberger, Chief Building Official, please contact Laura Akin, Senior Administrative Office Assistant, Confidential, at 209-577-5270.

YOU ARE FURTHER NOTIFIED that, if any work which is required in order to satisfy this Order has not been completed within the time specified above, the Building Safety Division of the City of Modesto may proceed to cause the property to be secured and all violations abated by City personnel or a private contractor. When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Building Safety Division. The Building Safety Division shall schedule a confirmation of costs hearing before an Administrative Hearing Officer or the Board of Building Appeals unless waived in writing by all responsible parties. All administrative and actual costs incurred by the City in abating the violations may be assessed and recovered against the responsible party pursuant to the provisions set forth in Sections 1-6.303 and 1-6.701 of the Modesto Municipal Code.

WHEREAS, said Notice and Order dated September 13, 2018, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on September 13, 2018, said Notice and Order of September 13, 2018, was mailed by certified mail, postage prepaid, return receipt requested to record owners and the holder of the deed of trust of record, pursuant to Article 12 of the Building Maintenance Code of the City of Modesto; and

WHEREAS, on September 13, 2018, said Notice and Order of September 13, 2018, was posted on the premises; and

WHEREAS, the owner(s) of said premises have failed to complete work within the time specified in said Notice and Order and, therefore, the owner(s) are now in violation of the Building Maintenance Code of the City of Modesto; and

WHEREAS, the property continues to deteriorate and constitutes a public nuisance; and

WHEREAS, on February 15, 2019, a "Notice of Board of Building Appeals Civil Penalty Hearing" was mailed by certified mail, postage prepaid, return receipt requested, to record owner(s) and posted on the property, pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Sections 58 and 60; and

WHEREAS, said "Notice of Board of Building Appeals Civil Penalty Hearing" gave notice that a public hearing would be held by the Board of Building Appeals of the City of Modesto, on February 28, 2019, at 4:00 p.m., in the Basement Conference Room B300 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 1525 McHenry Avenue; and

WHEREAS, a duly noticed public hearing of the Board was held at date, time, and place as mentioned above, for the purpose to hear and receive evidence to determine whether said premises constitutes a public nuisance and to consider other appropriate action to abate such nuisance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Appeals of the City of Modesto, that the following be ordered:

1. That the premises commonly referred to as 1525 McHenry Avenue, hereinafter referred to collectively as the "premises," be hereby declared a public nuisance.

THE BOARD ACCEPTS THE CITY STAFF RECOMMENDATION IN ITS ENTIRETY AND;

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2019-06, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE.

THE BOARD UPHOLDS THE NOTICE AND ORDER DATED SEPTEMBER 13, 2018, AND ORDERS THE PROPERTY OWNER TO ABATE THE NUISANCE CONDITIONS AS DIRECTED IN SAID NOTICE AND ORDER DATED SEPTEMBER 13, 2018.

THE BOARD APPROVES CIVIL PENALTIES IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS ($100,000.00) AND HEARING COSTS IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED THIRTY-EIGHT DOLLARS AND NINETY-EIGHT CENTS ($1,232.98) AS STATED IN THE COST REPORT UNDER EXHIBIT B OF THE CIVIL PENALTY HEARING PACKET AND THE EXPENSE THEREOF MADE

A PERSONAL OBLIGATION AND A LIEN AGAINST THE OWNER AND PROPERTY.

IF THE PROPERTY OWNER FAILS TO ABATE THE NUISANCE CONDITIONS WITHIN THIRTY (30) CALENDAR DAYS FROM THE POSTING OF COPIES OF THIS RESOLUTION, THE CITY OF MODESTO SHALL BE DEEMED TO HAVE ACQUIRED JUIRSICTION TO ABATE SUCH NUISANCE AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION AND A LIEN AGAINST THE OWNER AND PROPERTY.

BE IT FURTHER RESOLVED that the City of Modesto shall cause to be posted on the premises a Notice of the Passage of this Resolution No. 2019-06, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) calendar days after passage of this Resolution No. 2019-06, declaring a nuisance and directing abatement of the nuisance, the City of Modesto shall cause to be posted a copy of said resolution conspicuously on the buildings so declared to be a nuisance and mail another copy of the resolution by certified mail, postage prepaid, return receipt requested, to (1) the person(s) owning the land on which the buildings are located as such person's name and address appear on the last equalized assessment roll, and (2) to each mortgagee or beneficiary under any Deed of Trust, of record, at the last known address of such mortgagee or beneficiary. The officer or employee giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 58.

The foregoing matter was introduced at the regular meeting of the Board of Building Appeals of the City of Modesto held on the 28th day of February 2019, by Board Member, Richard Dalton, who moved its adoption, which motion being duly seconded by Board Member, John Bergman, was upon roll call carried in the resolution adopted by the following vote:

Ayes:	Bergman, Dalton, Yoshino
Noes:	None
Absent:	Reid, Wungluck

BY ORDER OF THE BOARD OF BUILDING APPEALS OF THE CITY OF MODESTO.

EVAN YOSHINO
BOARD OF BUILDING APPEALS

PROOF OF SERVICE - CCP §1013(a)(3)

I am employed in the County of Stanislaus, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is: 1010 10th Street, Modesto, California 95354.

On March 1, 2019 I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for 1525 McHenry Avenue , Modesto, California; Assessor's Parcel No. 119-006-016; on all parties in said action by serving a true copy thereof as follows:

KHATRI INCORPORATED
ATTN: JOHNNY KHATRI AND NEAL KHATRI
1608 SUNRISE AVENUE, SUITE 6
MODESTO, CA 95350

UNITED RESORTS LLC
ATTN: SHAFI AHMED/CEO
1525 MCHENRY AVENUE
MODESTO, CA 95350

PARAG M. MEHTA
50 GLENLAKE PARKWAY, SUITE 350
ATLANTA, GA 30328

x **BY MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to be placed in the United States Mail at Modesto, California. I am readily familiar with the office's practice for collection and processing of correspondence for mailing, and pursuant to those practices the envelope would be deposited with the United States Postal Service the same day.

x **BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to be placed in the United States Mail at Modesto, California. I am readily familiar with the office's practice for collection and processing of correspondence for mailing, and pursuant to those practices the envelope would be deposited with the United States Postal Service the same day.

____ **BY PERSONAL SERVICE:** I caused the within document to be hand delivered to the parties herein at the addresses set forth above.

____ **BY POSTING:** I posted such document on the property of the address as indicated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 1st day of March 2019 at Modesto, California.

Carmen Piña

CARMEN PIÑA
ADMINISTRATIVE OFFICE ASSISTANT III

INVOICE

CITY OF MODESTO
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
BUILDING SAFETY & NEIGHBORHOOD PRESERVATION DIVISION
1010 Tenth Street, Suite 3100 • Modesto, CA • 95354
Mailing Address: P.O. Box 3441 • Modesto, CA • 95353
209.577.5232 / fax 209.571.5135

TO: KHATRI BROTHERS
1608 SUNRISE AVE STE 6
MODESTO, CA 95350

INVOICE NO: 98998
DATE: 3/04/19

CUSTOMER NO: 48507/48507 TYPE: NP - NEIGHBORHD PRESERVATN

QUANTITY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1.00	ADMINISTRATIVE COSTS BOARD OF BUILDING APPEALS RESOLUTION NO. 2019-06 RE: 1525 MCHENRY AVENUE; COD2018-40002 02/28/19 BBA MEETING ADMINISTRATIVE COSTS	1,232.98	1,232.98
1.00	CIVIL PENALTIES CIVIL PENALTIES FOR NON-COMPLIANCE OF NOTICE AND ORDER DATED SEPTEMBER 18, 2018	100,000.00	100,000.00

PAY ONLINE AT MODESTOGOV.COM

TOTAL DUE: $101,232.98

PLEASE DETACH AND SEND THIS COPY WITH REMITTANCE

DATE: 3/04/19 DUE DATE: 3/14/19 NAME: KHATRI BROTHERS
CUSTOMER NO: 48507/48507 TYPE: NP - NEIGHBORHD PRESERVATN

REMIT AND MAKE CHECK PAYABLE TO:
CITY OF MODESTO
PO BOX 3441
1010 TENTH STREET
MODESTO CA 95353

INVOICE NO: 98998
TERMS: NET 10 DAYS AMOUNT: $101,232.98

PROOF OF SERVICE - CCP §1013(a)(3)

I am employed in the County of Stanislaus, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is: 1010 10th Street, Modesto, California 95354.

On March 4, 2019 I served a copy of the CITY OF MODESTO INVOICE NO. 98998 for 1525 McHenry Avenue , Modesto, California; Assessor's Parcel No. 119-006-016; on all parties in said action by serving a true copy thereof as follows:

KHATRI INCORPORATED
ATTN: JOHNNY KHATRI AND NEAL KHATRI
1608 SUNRISE AVENUE, SUITE 6
MODESTO, CA 95350

x **BY MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to be placed in the United States Mail at Modesto, California. I am readily familiar with the office's practice for collection and processing of correspondence for mailing, and pursuant to those practices the envelope would be deposited with the United States Postal Service the same day.

x **BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to be placed in the United States Mail at Modesto, California. I am readily familiar with the office's practice for collection and processing of correspondence for mailing, and pursuant to those practices the envelope would be deposited with the United States Postal Service the same day.

____ **BY PERSONAL SERVICE:** I caused the within document to be hand delivered to the parties herein at the addresses set forth above.

____ **BY POSTING:** I posted such document on the property of the address as indicated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of March 2019 at Modesto, California.

Carmen Piña

CARMEN PIÑA
ADMINISTRATIVE OFFICE ASSISTANT III