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9 UNITED STATES BANKRUPTCY COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION
 12

13 In re:
 14 CITY OF STOCKTON, CALIFORNIA,
 15 Debtor.

Case No. 2012-32118
 D.C. No. JD-1
 Chapter 9

**DECLARATION OF GORDON
 MACKAY IN SUPPORT OF CITY OF
 STOCKTON'S OPPOSITION TO
 FRANKLIN'S MOTION FOR STAY
 PENDING APPEAL OF
 CONFIRMATION ORDER**

Date: December 10, 2014
 Time: 11:00 a.m.
 Dept: C, Courtroom 35
 Judge: Hon. Christopher M. Klein

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1 I, Gordon MacKay, hereby declare:

2 1. I am the Director of the Public Works Department for the City of Stockton,
3 California (the "City" or "Stockton"). I make this declaration in support of the City's Opposition
4 To Franklin's Motion For Stay Pending Appeal Of Confirmation Order.

5 2. Before becoming the Director of Public Works in December 2012, I was the
6 Deputy Public Works Director for the City from December 2001 through December 2012. Prior
7 to December 2001 I held various engineering positions with cities in the Greater Vancouver area
8 of British Columbia, Canada. I have a Bachelor's Degree in Applied Science / Civil Engineering
9 from the University of British Columbia. I have been a registered Professional Engineer in the
10 Province of British Columbia since 1985. I am a member of the American Public Works
11 Association and the Institute of Transportation Engineers.

12 3. Stockton's existing City Hall at 425 North El Dorado Street ("City Hall") houses
13 staff from multiple departments including Administrative Services, the Office of the City Clerk,
14 the Office of the City Attorney, the Office of the City Manager, Economic Development, and the
15 Fire Department's administration division. These employees' operations involve critical City
16 functions including budget and financial monitoring, payroll, revenue and accounts payable, all
17 aspects of agenda management and documentation of official City actions, emergency planning,
18 and overall City management and leadership. The City could not effectively, or practically,
19 operate with these functions being off-line for any reason, including being offline due to a major
20 building failure.

21 4. A major building failure is a very real concern, due to the age of City Hall, the lack
22 of maintenance of the mechanical systems, and the hazardous materials present in the building.
23 City Hall was constructed in the 1920s, and runs on aged plumbing, wiring and mechanical
24 systems. Various components of the heating, ventilation and air conditioning ("HVAC") system,
25 such as the boiler, are well over 30 years old. Preventive maintenance, which is critical in these
26 types of older mechanical systems, has been close to non-existent over the last five to six years.
27 This was originally due to the anticipated move of City Hall functions to 400 East Main Street
28 ("400 East Main"), and following that it was due to a lack of resources resulting from the City's

1 financial difficulties. In 2009, for example, the City performed an environmental assessment
2 after third-floor staff raised concerns about air quality. The assessment found that the conditions
3 were generally acceptable, but recommended a series of HVAC improvements to improve the
4 situation by making the temperature more stable, decreasing carbon dioxide content, and the like.
5 The City has not made these improvements because of the lack of resources noted above. The
6 HVAC system in City Hall is currently functional, but due to the system's condition there is a risk
7 of an unreparable boiler malfunction that would render the heating system inoperable. If this
8 malfunction were to occur in winter, it would make the majority of the building unacceptable for
9 occupancy.

10 5. Similarly, the pipes within City Hall that distribute water and collect sewage are of
11 concern. The pipes are old, some dating back to the original construction, and are a constant
12 threat for leaks and spills. In the fall of 2011, for example, staff investigating odor complaints
13 discovered a significant sewer pipe leak in the exterior wall adjacent to a meeting room in the
14 basement of City Hall. The leak was due to an elbow pipe that had corroded due to age. The City
15 had the elbow repaired and the area cleaned, but it still closed off and unoccupied because the
16 City is not confident that the environment is acceptable. In addition, the roof system has had
17 several significant pipe leaks over the last 10 years that have been patched in a temporary fashion,
18 again with the expectation that the building would soon be vacant due to the planned move to 400
19 East Main.

20 6. All of the above creates a poor work environment for City Hall staff, which affects
21 productivity and morale. The building is cold and drafty in the winter, and the past roof leaks,
22 plumbing issues and other forms of water intrusion result in concerns regarding mold and air
23 quality. Rodents occupy the structure despite efforts to control them. The drinking water is
24 suspect due to lead pipe joints. Ceiling tiles, floor tiles and old window caulking contain
25 asbestos. In short, the building is not anywhere near modern expectations for an acceptable office
26 environment, and any repairs would involve not only the cost of the repairs, but also significant
27 expenditures for hazardous materials abatement incurred during the repairs.
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7. Relocation of staff to 400 East Main as soon as possible will eliminate the risk of a functional shutdown due to a mechanical or plumbing system failure. It will also provide staff with an acceptable work environment, and eliminate the expenditures associated with maintaining City Hall. Each day that this relocation is delayed is another day that City Hall staff is exposed to the conditions and risks discussed above. It is hard to value the harm that this delay would cause.

8. It is my understanding that the City's lease of 400 East Main does not begin until the City's plan of adjustment goes into effect. If that were delayed, as it would be by granting a stay of the confirmation order, the new lease of 400 East Main would be delayed, and staff will need to remain in City Hall for however long the stay remains in place. I am informed that this period could be as long as a year or even two or three years.

Executed this 25th day of November 2014, at Stockton, California. I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.



Gordon MacKay