

basis and give needles to the homeless in order to inject drugs. It permits this drug use on and around its surrounding property. And it then permits the homeless to linger in and around the community even if they are in an unstable state. In Sunrise’s own words, Sunrise has converted the area into a “steady home base” for this dangerous, drug-addled homeless population. The result is predictable, and devastating for the local community.



Used needles found by a business near Sunrise.¹

Scores of local residents have explained what a disaster Sunrise is for the local community. Sunrise homeless clients break into residents’ homes. *See infra* ¶¶ 46 and 49. They menace residents with machetes. *Id.* ¶¶ 47 and 52. They routinely urinate and defecate in the streets. *Id.* ¶¶ 34, 45, 47, 49, 51, 67 and 96. They masturbate in public, while trying to grab passing women.

¹ *See* Exhibit 1, Affidavit of Jeremy Shirk.

Id. ¶¶ 72 and 73. They wake up residents with high-pitched screams in the middle of the night. *Id.* ¶ 48.

All of this would be bad enough. But Sunrise’s depravity is a great deal worse because it operates *mere feet from an elementary school*. Students and staff at the elementary school have been terrorized by the conduct that Sunrise’s operations facilitate. Elementary school students, as young as four years old, and staff bear witness to the homeless walking around naked, fornicating, relieving themselves in public, and engaging in open drug use. No surprise, the elementary school’s own staff have indicated that “Students have told me they do not feel safe” due to Sunrise’s operations.² And parents have explained in detail how they are terrified for their children’s safety.

And for all of this, Sunrise is paid handsomely. The Austin City Council has awarded Sunrise over \$1 million dollars to serve the homeless.³ But while Sunrise is enriched, local residents and businesses pay a steep price. That is not how the homeless crisis should be dealt with. Homelessness is a systemic problem that requires systemic solutions. And, as the Arizona Supreme Court put it in a materially identical case: the collateral costs of operating a facility for the homeless cannot lawfully “be visited in their entirety upon the residents of a single neighborhood.” *Armoy Park Neighborhood Assn v. Episcopal Community Services*, 712 P.2d 914, 921 (Ariz. 1985). Sunrise’s operations unlawfully inflict such a cost upon this formerly peaceful neighborhood.

Sunrise may contend that its operations are altruistic and well-intentioned. But “even admirable ventures may cause unreasonable interferences” with other persons’ rights. *Id.* Sunrise’s

² See Exhibit 2, Affidavit of Natalie Murray

³ See Exhibit 3, <https://services.austintexas.gov/edims/document.cfm?id=434653>

operations amount to such unreasonable interference. As the neighbors put it, Sunrise “has tried to fill a gap but has in turn created a crisis for everyone.” And Sunrise’s operations are unlawful under statutory and common law nuisance doctrines.

Plaintiff, the State of Texas, acting by and through Ken Paxton, the Attorney General of Texas, brings this Original Petition for Injunctive Relief seeking temporary and permanent injunctive relief against the activities that are the subject of this Petition. Plaintiff seeks a temporary injunction immediately halting Sunrise’s operations.

For the reasons set forth herein, after notice and hearing, the Court should enjoin Defendants on the terms set forth in this Petition’s Prayer for Relief.

I. DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II. THE PARTIES

2. Plaintiff is the State of Texas.

3. Defendant, Sunrise Community Church, Inc. d/b/a Sunrise Homeless Navigation Center, is a domestic non-profit corporation organized under the laws of the State of Texas and may be served with process by serving its registered agent, Thomas Dykman, at 4430 Menchaca Road, Austin, Texas 78745. Citation is requested at this time.

4. Mark Hilbelink is the Executive Director and Founder of Sunrise Homeless Navigation Center. He may be served with process at his place of residence located at 6309 Poncho Pass, Austin, Texas 78749, his place of business located at Menchaca Road, Austin, Texas 78745, or wherever he may be found. Citation is requested at this time.

5. The real property known as 4430 Menchaca Road is also sued as a defendant in rem. *See* Civ. Prac. & Rem. Code § 125.002(b). It is owned by Sunrise Community Church, Inc. and can be served with process by serving its registered agent, Thomas Dykman, at 4430 Menchaca Road, Austin, Texas 78745. Citation is requested at this time.

III. JURISDICTION AND VENUE

6. This Court has jurisdiction to hear the present action. Tex. Civ. P. & Rem. Code § 65.021(a); Tex. Const. Art. 5, Sec. 8.

7. Venue is proper in Travis County pursuant to Tex. Civ. P. & Rem. Code § 15.002 because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and it is the county of Defendants' principal offices in this state.

IV. STATEMENT OF RELIEF

8. The State seeks only non-monetary relief.
9. The State seeks injunctive relief prohibiting future actions.
10. The State does not seek attorney's fees.
11. This suit is not governed by the expedited actions process in Rule 169.

V. FACTUAL BACKGROUND

A. Sunrise's Operations

12. Sunrise is a self-described homeless resource center that sits approximately 200-feet away from the front-door of Joslin Elementary School in Austin, Texas.⁴ As of the date of this filing, Sunrise offers its services to the homeless between 9:00 am and 1:00 pm, Monday through Friday, but notes on its website that a line begins to form at 8 a.m.⁵

⁴ *See* Exhibit 4, <https://sunrisenavigationcenter.org/sunrise-hub>

⁵ *Id.*

13. According to its website, Sunrise serves “about 300 people per day” and allows at least “8,000 individuals” to receive mail at its address.⁶ In 2023, Sunrise served 10,853 people.⁷

14. Sunrise describes itself as offering “humanitarian aid, meals, medical and mental health care, mail services, benefits enrollment, IDs, showers and more” to “unhoused residents in South Austin.”⁸ As Sunrise describes it, their services offer a “steady home base” for the population it serves. However, Sunrise does not provide a place on-site for the homeless to reside or sleep. Thus, when Sunrise shuts its doors for the day, it requires the homeless to leave Sunrise’s property and disperse into the surrounding neighborhoods.⁹ That dynamic unleashes a torrent of crime and other disorderly conduct throughout the community.

15. Sunrise also bills itself as the “first holistic and fully integrated model” for homelessness services.¹⁰ Sunrise “walk[s] alongside a” homeless person “through their entire homeless experience ensuring there are no cracks, [and] no places to fall through.”¹¹

16. Sunrise also receives government funding for its services.¹²

17. Sunrise’s property is also used as a church. Sunrise refers to itself as the “Weirdest Little Church in Texas.”¹³

B. Sunrise’s Unreasonable Interference with the General Public’s Peaceable Enjoyment of the Surrounding Area

⁶ *Id.*

⁷ See Exhibit 5, <https://sunrisenavigationcenter.org/>

⁸ See Exhibit 4, <https://sunrisenavigationcenter.org/sunrise-hub>

⁹ See Exhibit 6, *e.g.*, GO2022-2780954 at 6 (at the end of the day Sunrise staff “make sure that all of the homeless folks . . . get up and walk somewhere else”).

¹⁰ See Exhibit 7, <https://sunrisenavigationcenter.org/our-approach>

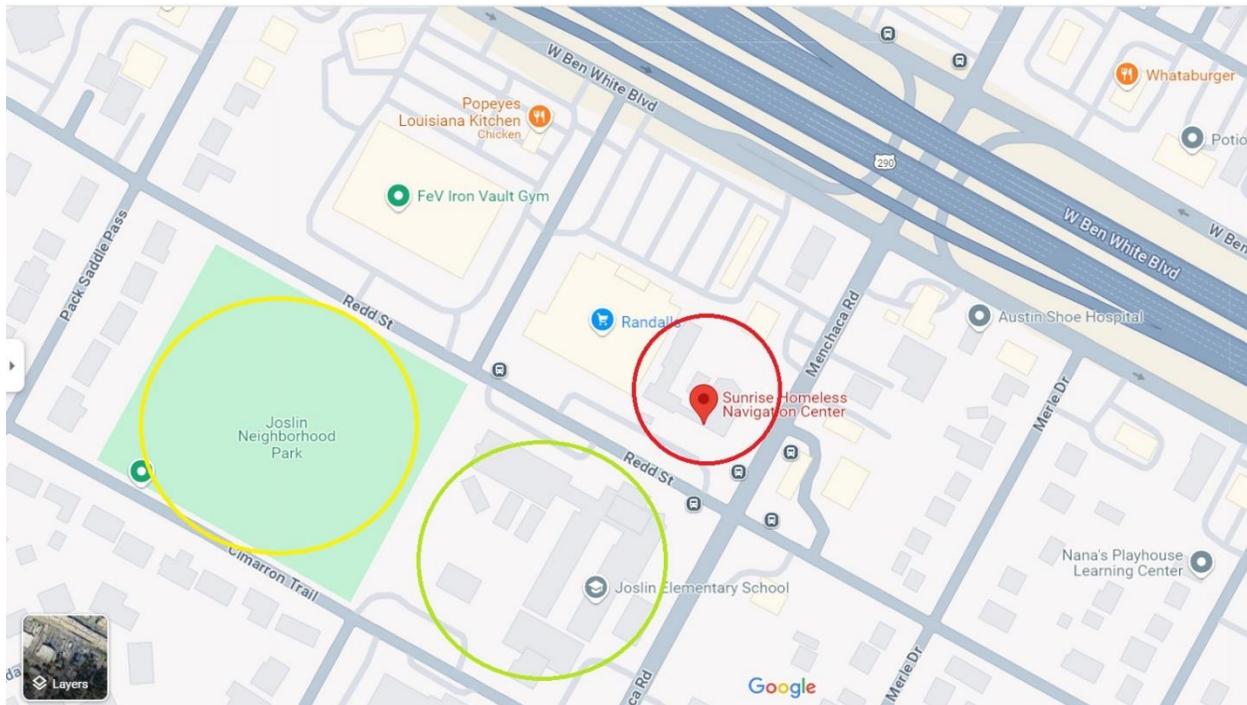
¹¹ *Id.*

¹² See Exhibit 3, *e.g.*, <https://services.austintexas.gov/edims/document.cfm?id=434653>.

¹³ See Exhibit 8, <https://sunriseaustin.org/about/why-were-weird>

18. Sunrise's operations have attracted a large, drug-addicted and dangerous homeless population that unreasonably interferes with the general public's use and peaceable enjoyment of the surrounding area.

19. Sunrise is located immediately adjacent to an elementary school and a neighborhood park used by local, elementary school aged-children. Sunrise is also located near many commercial establishments and at least dozens of residential properties. The map below depicts Sunrise's location in relation to these entities.



1. Sunrise has Caused an Unreasonable Interference with the Local Community by Facilitating and Enabling Copious Drug Use on and Around its Property

20. Sunrise is a notorious staging ground for prolific drug use.

21. Sunrise facilitates and enables services to its large homeless population from the Texas Harm Reduction Alliance (THRA).

22. THRA provides what it refers to as “sterile harm reduction supplies”—in plain English: syringes—to people on the street.¹⁴ THRA’s “Street Outreach team meets people where they’re at,”¹⁵ including the homeless population drawn to the area by Sunrise. THRA distributes its syringes on Sunrise property, across the street from Joslin Elementary, at 12-1:30 p.m. each Thursday.¹⁶

23. THRA describes itself as “envision[ing] a world in which we are liberated from the War on Drugs, where people who use drugs can live and thrive with community, dignity, and self-determination.”¹⁷ THRA’s beliefs include “the abolition” of “prisons, police, and the capital built from prison slave labor, ICE,” and “coercive rehabilitation.” *Id.*

24. In 2023, THRA distributed almost 300,000 clean syringes, but only disposed of less than 14,500.¹⁸



¹⁴ See Exhibit 9, <https://www.texasharmreduction.org/>

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Exhibit 10, <https://www.texasharmreduction.org/about>

¹⁸ *Id.*

25. Predictably, the hundreds of thousands of needles distributed by THRA likely contribute to the prevalence of drug paraphernalia, including used needles, littering the surrounding area. Used needles can be found within short walks of Joslin Elementary School and Josling Neighborhood Park.¹⁹



26. Drug addiction is common among Sunrise’s clients, which in turn fuels criminality, and creates an environment where nearby homes and businesses are at constant risk of theft.²⁰ As

¹⁹ See Exhibit 11, Affidavit of Will Taylor

²⁰ *Id.*

one resident puts it, the conduct of the homeless population drawn to the area by Sunrise creates “an environment of fear and instability.”²¹

27. Unsurprisingly, the police frequently encounter people at and around Sunrise in a dangerous, drug-addled state. For example, one police incident report from 2024 depicts a man with “meth pipes and several syringes” at Sunrise “screaming at a wall.”²²

28. The prolific drug use at Sunrise results in a constant stream of problems in the surrounding area for residents and businesses. As locals tell it, they routinely “witness[] blatantly public drug use[] and drug sales.”²³

29. One resident explains: “I regularly picked up trash in the neighborhood three times a week and filled two giant trash bags every time. I’ve picked up used needles and undergarments filled with feces.”²⁴

30. Other residents likewise personally attest to witnessing “people buying, selling, and using drugs out in the open.”²⁵

31. Other residents explain how Sunrise’s homeless “constantly leave drug paraphernalia, needles, and trash along the side of [their] house.”²⁶ Or how the homeless have “left used needles at [residents’] front door and drug kit paraphernalia in [their] landscaping.”²⁷

32. Residents likewise explain that the homeless “house[] themselves in vacant homes and set up meth labs.”²⁸

²¹ See Exhibit 12, Affidavit of Kimberly Ciolli

²² See Exhibit 13, GO2024-1881505 at 4.

²³ See Exhibit 14, Affidavit of Ben Jansen.

²⁴ See Exhibit 15, Affidavit of Nicole Tuggle.

²⁵ See Exhibit 2, Affidavit of Natalie Murray.

²⁶ See Exhibit 16, Affidavit of Laneille Atwill.

²⁷ See Exhibit 17, Affidavit of Scott Parker.

²⁸ *Id.*

33. Business owners and employees explain how “[o]n a daily basis, [they] observe individuals who appear to be high or intoxicated” at and around Sunrise and near their businesses. Those business owners receive “frequent complaints from [their] customers.”²⁹

34. A nearby church also experiences severe, drug-related disturbances. The “custodians at Woodlawn Baptist Church”—located two blocks from Sunrise—“are constantly having to clean up human waste, trash, needles, drug paraphernalia, condoms and so much more.”³⁰

35. The prolific drug use is particularly alarming because of the close proximity to Joslin Elementary School. By law, the area within 1,000 feet of public schools and playgrounds is supposed to be drug-free. *See* Tex. Health & Safety Code 481.134. Yet Sunrise’s operations lead to prolific drug use at and around Joslin Elementary School.

36. For example, recent incident reports from the elementary school indicate that Sunrise’s homeless abandon carts of belongings on school property, and that those carts include used needles.³¹

²⁹ *See* Exhibit 1, Affidavit of Jeremy Shirk.

³⁰ *See* Exhibit 18, Affidavit of Diane Quinones.

³¹ *See* Exhibit 19, Campus Incident Report.





37. In one incident, after school staff were left to clean up the mess, a group of homeless began to search through the contents of the school’s dumpster.³²

38. The drug use has profound effects on children’s ability to freely recreate too. One resident explains “I have found needles and feces on the children’s playground in Joslin Park.”³³

³² *Id.*

³³ See Exhibit 15, Affidavit of Nicole Tuggle.

39. Police reports tell the same story. Police reports reflect, for example, that Sunrise’s homeless clients enter the “playground and do[] drugs in the park.”³⁴ In one incident, police discovered that individuals in the park had 50 lethal doses of fentanyl in their possession.³⁵

40. On July 22, 2024, police conducted a patrol in Joslin Park to enforce the city curfew and help deter the influx of vehicle burglaries and assaults.³⁶ Police found a man sleeping under a tree who had an active warrant for parole/drug violations. The warrant also noted that this individual had “violent tendencies” and was “mentally ill.”³⁷ Police arrested him and at the same time removed eight other vagrants from the park.³⁸

41. Local news has also reported on the prevalence of used syringes just feet from Joslin Elementary.³⁹ And local news likewise reports how parents find needles, human feces, and Narcan at Joslin Park.⁴⁰

2. Sunrise has Caused an Unreasonable Interference with the Local Community by Facilitating and Enabling Disorderly Conduct and Other Crimes.

42. Sunrise’s operations also result in rampant disorderly conduct and more serious crimes in and around the surrounding neighborhood.

43. Recent Austin police reports indicate that there has been an “increase in vehicle burglary and assault incidences” in Sunrise’s immediate vicinity.⁴¹

³⁴ See Exhibit 20, GO2022- 2231329[Aug. 11, 2022 incident report].

³⁵ *Id.*

³⁶ See Exhibit 21, General Offense report 2024-2040180

³⁷ *Id.*

³⁸ *Id.*

³⁹ See Exhibit 22, <https://www.kvue.com/article/news/local/needles-trash-found-near-austin-school-austin-mother-frustrated-lack-of-homeless-resources/269-ac39717a-4dac-4536-9b23-a1bb95296c43>

⁴⁰ *Id.*

⁴¹ See Exhibit 21, [p. 12 of 17]

44. Austin police reports also depict rampant violent behavior in Sunrise’s immediate vicinity. For example, one incident report describes how at three in the morning police responded to a call about a homeless man directly in front of Sunrise “running around the area with a rod in his hand,” “swinging it around” and “yelling that he wanted to kill himself about 10 times.”⁴² The man was “waking everyone up,” and when police found him he was “laying in the middle of the street.”⁴³

45. One resident who lives approximately one block from Sunrise has explained that her home has been “vandalized many times,” with homeless camping on the front doorstep and “right outside my daughter’s bedroom window.”⁴⁴ This same resident’s “fence line” is “regularly used as a toilet.”⁴⁵

46. Another resident has had her home broken into “five times in the last three years.”⁴⁶ This resident still has nightmares of the time a homeless man she “routinely see[s]” around Sunrise entered her home with his “buttocks completely exposed.” In the aftermath of these break-ins, this homeowner describes her home as “ransacked,” with shattered glass and “kitchen knives with blood on them” left around the house. Aside from the thousands of dollars in damage she has incurred, she is no longer able to jog in or around the Sunrise area for fear of her own safety.

47. Another resident, a father of two teenage girls, recounts how the neighborhood he was once proud of, has been deteriorated by “the influx of criminals and mentally ill individuals who go to” Sunrise.⁴⁷ After witnessing “blatantly public drug use, drug sales, public urination and defecation, fights among the homeless, [and] nudity and fornication in Joslin Park,” his family has

⁴² See Exhibit 23, GO2022-2480219 at 5.

⁴³ *Id.*

⁴⁴ See Exhibit 15, Affidavit of Nicole Tuggle.

⁴⁵ *Id.*

⁴⁶ See Exhibit 24, Affidavit of Kelly Stevens.

⁴⁷ See Exhibit 14, Affidavit of Ben Jansen.

“been relegated to tightly monitored drop-offs to protect” their two girls “from the dangers surrounding” the neighborhood. This same resident has likewise observed an individual in close proximity to Sunrise “walking down the road brandishing a machete.”

48. Another resident, who has lived in the neighborhood for over thirty years, remembers what the neighborhood was like before Sunrise began its operations.⁴⁸ Unfortunately, Sunrise has “turned [her] neighborhood into a scary, filthy mess.” Because of the “homeless individuals who come and go from [Sunrise],” she is now “fearful of going outside” her own yard. She is “constantly awoken at night by screaming, high and intoxicated homeless people going up and down the sidewalks,” and had to call “the police about a person beating on my door in the middle of the night, alternating between saying ‘I’ll kill you’,” and begging to “let him in.”

49. One resident, who has been in the surrounding neighborhood since 1964, said the area was “peaceful” and “pleasant” until Sunrise opened. This homeowner had his home burglarized 18 months ago during the daytime. He has witnessed “used syringes, used condoms, and mounds of trash” in the area and indicated it is “common” to observe individuals on the grounds of Sunrise “defecating, urinating or exposing themselves in plain sight” of Joslin Elementary.⁴⁹ Another area business owner similar describes how they “never had any crime” in the past, but “after [Sunrise] started promoting services for the vagrants around five years ago” there has been “tremendous negative activity.”⁵⁰

50. Another resident has found used needles in his yard and has witnessed someone urinating in his yard at 8 o’clock in the morning.⁵¹ This same resident proclaims Joslin Park is

⁴⁸ See Exhibit 16, Affidavit of Laneille Atwill

⁴⁹ See Exhibit 25, Affidavit of John Williams

⁵⁰ See Exhibit 26, Affidavit of Mary Jane Carlett

⁵¹ See Exhibit 27, Affidavit of Eric Wee

“virtually unusable” because transients “camp there, pass out and/or sleep on the picnic tables and playground equipment.” He was also observed used condoms, drug paraphernalia, including what appears to be brown/blackened balloons, clear baggies and burned/dirty aluminum foil in Joslin Park.

51. One resident, who retired to the area in 2016 with her husband, notes the neighborhood has gotten increasingly worse.⁵² She cannot take her grandchildren to Joslin Park because the park has “become an extension of Sunrise,” and has been “taken over by campers, drug users, and God only knows what else.” Two months ago, this area resident observed a naked man walking through the park. She has also witnessed people “passed out” near Joslin Elementary and observed a man publicly defecating in the presence of her three-year-old grandchildren.

52. Another resident recounts vividly the dangerous dilemmas that peaceful residents are exposed to on a regular basis:

On one occasion, I was stopped at the light [by] Sunrise . . . Across the street near the bus stop, a shirtless, raving man swung a machete at imaginary foes. A clear danger, I immediately considered the threat to my personal safety, and those of others on the street or stopped at the light. I considered my escape plan—back up? Run the light? And what if a bus stopped there, with passengers aboard—would the driver recognize the threat? The light changed to green and I moved on. But the point of this story is that this is an everyday type of occurrence in proximity to Sunrise Church.⁵³

53. Another resident explains how on “almost a daily basis” she sees Sunrise’s homeless clients “sleeping on the playscape or the slide at the playground.”⁵⁴

⁵² See Exhibit 28, Affidavit of Jodi Cummins

⁵³ See Exhibit 17, Affidavit of Scott Parker.

⁵⁴ See Exhibit 15, Affidavit of Nicole Tuggle.

54. Sunrise is also responsible for severe and unreasonable interference with schoolchildren's safety at nearby Joslin Elementary school. As depicted *supra* ¶ 12, Sunrise is located approximately 200 hundred feet from Joslin Elementary school.

55. As one parent describes it, the area "is no longer safe. I have witnesses numerous passed out bodies on the sidewalk, as well as mounds of trash. While walking my children to school, people approached us, swearing and yelling. I have witnessed homeless people, nearly naked, wiping their bodies down for a bath. I have also witnessed a woman naked from the waist down stumbling around on the walk to school."⁵⁵

56. A local news story titled "Sunrise Homeless Navigation Center Creating Safety Concerns for Joslin Elementary Parents" describes how a parent and her children were "chased by an individual and they started barking at us and yelling. And then another morning we had another individual screaming at us at the top of their lungs and my daughter was scared where she actually brought her to tears."⁵⁶

57. During the 2023-24 school year, a homeless person gained access into the school. She had to be escorted out, while kicking and screaming expletives in front of pre-K students.⁵⁷

58. Between April 2023 and July 2024, Joslin Elementary also documented numerous serious incidents at or near the school that impacted the school's operations.⁵⁸

59. In one incident, "2 individuals at Sunrise" were engaged in an altercation where a "knife was drawn." Joslin Elementary had to be placed into a "secure" setting as a result of this incident.

⁵⁵ See Exhibit 15, Affidavit of Nicole Tuggle

⁵⁶ See Exhibit 29, <https://cbsaustin.com/news/local/sunrise-homeless-navigation-center-creating-safety-concerns-for-joslin-elementary-parents>.

⁵⁷ See Exhibit 30, Affidavit of Stephanie Turner

⁵⁸ See Exhibit 19, Campus Incident Report

60. In another incident, one of Sunrise’s clients threw rocks through three windows at the school.

61. In another incident, a Sunrise client “slept in front” of one of the school’s entrances, pounded her head on the school window, and urinated on the ground.

62. In another incident, approximately 10 homeless persons began fighting at Sunrise and forced the school to go into “secure” mode in the morning of a school-day.

63. Another incident, during school hours, occurred when a transient forced his way into Sunrise by pounding and breaking windows and doors with a shovel. Even though it was 55 degrees outside, the homeless man was sweating profusely. Police noted the man’s movements were tense and repetitive, which is consistent with methamphetamine use. Joslin Elementary had to be alerted of the incident and it was so concerning to police that it was noted in the report that this individual “could have gone across the street” to the school and engaged in the same exact behavior potentially harming children.⁵⁹

⁵⁹ See Exhibit 31, GO# 2024-410846

64. In another incident, a used mattress and condom were found directly outside the school fence:⁶⁰



⁶⁰ *Id.*



An individual camping down the block from Joslin Elementary.

65. And the police are called to address alarming incidents and arrest homeless persons when Sunrise’s guests loiter at the elementary school in a drug-addled state. For example, in one recent arrest report a homeless person was apprehended for entering Joslin Elementary and sleeping on its property.⁶¹

66. This conduct in close proximity to the school is particularly alarming because among the homeless who utilize Sunrise are convicted sex offenders. According to the Texas Department of Public Safety’s online database, multiple sex offenders are described as being located in the approximate location of Sunrise.⁶²

67. Sunrise’s operations also inflict great damage on local businesses. Business owners have lost “thousands of dollars” due to broken windows and break-ins. It is commonplace to see vagrants defecating outside of businesses.⁶³

⁶¹ See Exhibit 32, GO# 2023-2601107

⁶² See Exhibit 33, e.g., <https://sor.dps.texas.gov/PublicSite/Search/Rapsheet?Sid=04439513>; <https://sor.dps.texas.gov/PublicSite/Search/Rapsheet?Sid=06160925>

⁶³ See Exhibit 1, Affidavit of Jeremy Shirk; and Exhibit 14, Affidavit of Ben Jansen

68. The glass doors of a local church “have been broken multiple times,” leaving the church to bear the cost of repairs.”⁶⁴ A woman who works at the church also complains of seeing multiple people “trying to light fires under the doors and on the front doorbell camera.”

69. One business owner complains of having to remove trespassers “from Sunrise on a daily basis.” The owner had to go so far as to shut off the water to the building and remove “temporary toilets as they ha[d] become a literal drug den” for Sunrise’s clients.⁶⁵

70. Another business owner describes the neighborhood as going “downhill so fast,” “[e]ver since Sunrise has been in our community.”⁶⁶ Employees of this business deal with “verbal assaults,” being “spit on,” and the owner was “physically attacked” after confronting a homeless individual who threw a brick through his restaurant’s window.

71. In July 2024, news media reported that an area senior living community was experiencing the impact of Sunrise at the facility.⁶⁷ The daughter of a resident went to the media after she witnessed a homeless man approaching a senior resident with his hands reaching towards her. The daughter honked her horn and yelled at him to get him away from the resident. However, he then turned his efforts to her by moving towards her vehicle while yelling and swearing. Used needles were also discovered only a few feet from this retirement community.

72. The Randall’s next-door experiences regular, highly alarming incidents. For example, one police report documents how a man from the “transient camps” adjacent to Sunrise approached a female shopper in Randall’s while “actively masturbating.”⁶⁸ He “grabbed [the shopper] by her right elbow” and she was “worried that he was going to attempt to drag her toward

⁶⁴ See Exhibit 18, Affidavit of Diane Quinones

⁶⁵ See Exhibit 14, Affidavit of Ben Jansen.

⁶⁶ See Exhibit 1, Affidavit of Jeremy Shirk

⁶⁷.See Exhibit 34, <https://www.kvue.com/article/news/local/homeless/solstice-senior-living-homeless-camp/269-eedd6abd-3833-4601-b122-405d730f5539>

⁶⁸ See Exhibit 35, GO2024-5018519.

the nearby bathrooms.”⁶⁹ The individual fled “toward the transient camps” after the incident.⁷⁰ That individual, however, is known to law enforcement and when he had told police to “take him to Sunrise Community Church” during a previous incident.⁷¹

73. In another incident in Randall’s parking lot, a “transient” person was “masturbating” while “grabb[ing] hold of” a “screaming” female’s head.⁷² The arrestee was in possession of crystal meth.

74. In another incident at Randall’s, a “schizophrenic” person with a shopping cart full of clothes refused to leave the premises, and when arrested was found in possession of a glass pipe.⁷³

75. In another incident at Randall’s, a thief led police officers on a chase away from the premises. He evidently felt that Sunrise would be a safe harbor, because he ran “through the church property.”⁷⁴

76. The Popeyes neighboring Sunrise endures severe disturbances. For example, one recent arrest report indicates that a transient individual with active warrants for indecent exposure and assault was trespassing at Popeyes.⁷⁵

77. The Valero directly across from Sunrise is not immune either. In the middle of the afternoon, a “large” group of transient individuals were outside of the property smoking crack. Upon responding, officers discovered a glass pipe with a large bowl and visible residue on the bowl. There were also “multiple syringes” scattered in the area. After making arrests, the officers

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 23-24.

⁷² See Exhibit 36, GO2024-1971462 at 7; *id.* at 2 (showing he is transient)

⁷³ See Exhibit 37, GO2024-1861406 at 6-7; *id.* at 2 (showing she is transient).

⁷⁴ See Exhibit 38, GO2024-2200974 at 8.

⁷⁵ See Exhibit 35, GO2024-5018519 at 16-17; *id.* at 4 (showing he is transient)

observed an individual asleep on the property who was subsequently arrested for a parole violation related to an assault on a public servant conviction. This individual had multiple knives/tools on him.⁷⁶

78. Dan’s Hamburgers, which is approximately 1000 feet from Sunrise, also suffers at the hands of Sunrise’s clients. One recent arrest report details an intoxicated transient person who refused to leave. He was acting aggressively towards employees and was slamming objects everywhere while yelling to nobody in particular. Officers described the man as “nervous and acting erratically, rocking back and forth and curling up when he was spoken to.”⁷⁷

79. For some homeless, Sunrise is a home base that they can retreat to after committing crimes. For example, one incident in 2024 describes a woman who “shot up meth” and then began “kicking vehicles located at” a nearby gas station.⁷⁸ As she was kicking, a “driver of one of the vehicles exited and pepper sprayed” her.⁷⁹ After running through traffic, the homeless individual was found “sitting down in front of the Sunrise Church . . . screaming at officers.”⁸⁰

C. Sunrise Tolerates and Fails to Abate the Unreasonable Interferences

80. Sunrise, despite having actual knowledge about the unreasonable interferences created by its operations, fails to abate them. Sunrise seems to tolerate the drug use, disorderly conduct, and various other crimes around its premises. Police calls and incident reports demonstrate that Sunrise harbors and tolerates criminals, but when criminal conduct endangers Sunrise or its employees, the police are called.

⁷⁶ See Exhibit 39, GO 2024-1500897

⁷⁷ See Exhibit 40, GO 024-801264

⁷⁸ See Exhibit 41, GO2024-1971532 at 7.

⁷⁹ *Id.*

⁸⁰ *Id.*

81. For example, one police investigation from 2022-2023 describes a homeless criminal arrested for theft.⁸¹ Sunrise’s Executive Director Mark Hilbelink admitted that the person “had been a client of [Sunrise] for about 3 to 4 years.”⁸² However, in late 2022, the individual stole *from Sunrise*. This caused Hilbelink to report the individual to the police.⁸³ But it appears that the same individual was a known menace in the community prior to Hilbelink’s complaint, and that Hilbelink never reported him to police for off-property crimes. For example, in one incident the individual was arrested in the immediate vicinity of Sunrise and in possession of “methamphetamine” and “6, used, hypodermic needles.”⁸⁴

82. In 2023, another Sunrise client appears to have exhausted Sunrise’s patience and forced them to call the police when he became a threat *to Sunrise*.⁸⁵ The individual appeared to be residing directly outside Sunrise, where he had a “significant amount of property” including a “suitcase” “clothing,” “fingernail clippers” and other items.⁸⁶ But he was a “methamphetamine” user, and one day in an aggressive rage he “wield[ed] a shovel[] [and] began breaking the windows and glass doors at the entrance to” Sunrise.⁸⁷ A terrified Sunrise worker “locked herself in an office” and called the police.⁸⁸

83. Another incident in 2023 occurred with a homeless person who was “frequently at [Sunrise] on a daily basis.”⁸⁹ This individual eventually wore out his welcome, however, when he “stole cash” from Sunrise and “made a threat with his fist to punch someone.”⁹⁰

⁸¹ See Exhibit 42, GO2022-8019628 at 16-17.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.* at 7-8.

⁸⁵ See Exhibit 43, GO2023-410846.

⁸⁶ *Id.* at 7.

⁸⁷ *Id.* at 6

⁸⁸ *Id.*

⁸⁹ See Exhibit 44, GO2023-530493 at 9.

⁹⁰ *Id.*

84. Another incident in 2023 involved a Sunrise client who received regular “checks” in Sunrise’s mail.⁹¹ He had also “busted out [Sunrise’s] windows” in the past. But on one day he got particularly “angry” because his checks were no longer coming to Sunrise, and he broke another window in a rage and caused Sunrise staff to call police.⁹²

85. Another incident in 2024 involved a Sunrise client in possession of prescription drugs who was “yelling at” and “threatening to fight other subjects on scene” at Sunrise.⁹³

86. Another incident in 2024 involved a Sunrise client “kicking, swinging, and threatening the [other] patrons” at Sunrise.⁹⁴

87. Although Sunrise appears to call police when one of its homeless clients physically threatens Sunrise, it nevertheless continues to serve those same violent clients if they re-appear sometime after their arrest. For example, one police report describes Hilbelink telling an officer that a particular client has a “history of burglaries.”⁹⁵ Sunrise had “been providing services to [this client] for 10 years” notwithstanding the burglaries.⁹⁶ Indeed, Hilbelink is so familiar with this particular client that Hilbelink knows exactly where he goes after he commits burglaries. He told police that the client “doesn’t go very far,” and actually found the client for the police at the scene for a call.⁹⁷

88. Another incident report from 2024 depicts a Sunrise client who had previously been arrested for trespass at Sunrise. Sunrise evidently let him back on the property because on one particular day he was “causing a disturbance all morning.”⁹⁸ It was not until the client “threatened”

⁹¹ See Exhibit 45, GO2023-690334 at 8.

⁹² *Id.*

⁹³ See Exhibit 46, GO2024-750682 at 6.

⁹⁴ See Exhibit 47, GO2024-2030561, at 6.

⁹⁵ See Exhibit 48, GO2023-2240454 at 14.

⁹⁶ *Id.*

⁹⁷ *Id.* at 9.

⁹⁸ See Exhibit 49 GO2024-1360474 at 6.

Sunrise “multiple times” that Sunrise decided to call police.⁹⁹ Police found the client in possession of meth and a knife.¹⁰⁰

89. Another 2024 incident report describes how Sunrise “staff” called police to conduct a “welfare check” on one of its clients.¹⁰¹ Sunrise’s staff was well-acquainted with the client because they told police that he “has a warrant.”¹⁰² When police arrived, they found the client in possession of meth.¹⁰³

90. Sunrise’s clients also commonly attack each other, although it is unclear whether Sunrise itself ever intervenes in these scenarios. For example, one incident in 2024 describes how one Sunrise client “snuck up on [another] and punched her in the head, causing her to fall on her back to the concrete.”¹⁰⁴ The aggressor then “mounted” the fallen woman, “continuing the assault.”¹⁰⁵ The incident happened on Sunrise’s property, but there appears to be no record of *Sunrise* calling for help and/or intervening.

91. Indeed, when violent incidents occur between Sunrise clients on Sunrise property, calls to police are often made by persons unaffiliated with Sunrise.¹⁰⁶

92. Moreover, Sunrise elects *not* to file charges against violent clients. One incident report, for example, describes a Sunrise client who stole cash, threatened to punch someone, and was known to break Sunrise’s windows.¹⁰⁷ He was “well known to” Sunrise staff.¹⁰⁸ And when

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ See Exhibit 50, CAD2024-1230686 (“Staff” made the call); GO2024-1230686 at 4 (welfare check)

¹⁰² See Exhibit 51, GO2024-1230686 at 4.

¹⁰³ *Id.*

¹⁰⁴ See Exhibit 52, GO2024-2220620 at 6.

¹⁰⁵ *Id.*

¹⁰⁶ See Exhibit 53, *e.g.*, GO2023-1450535 at 7-8.

¹⁰⁷ See Exhibit 44, GO2023-530493 at 9.

¹⁰⁸ *Id.*

police came to arrest him, Sunrise’s staff said “they do not want to file charges [against him] for the theft of the cash” because he “has mental health issues.”¹⁰⁹

D. Local Residents Implore Sunrise to Abate the Nuisances

93. As described above, Sunrise has clear, actual knowledge about the unreasonable interferences described herein, and fails to abate them.

94. In May 2024, this problem reached a boiling point with local residents. Specifically, “City and community leaders hosted a ‘Community Homelessness Meeting’” to allow residents to tell their stories about Sunrise and to seek a response from Sunrise.

95. “Most people who attended the meeting expressed frustrations and concerns about public safety issues related to homelessness . . . [and] wanted Sunrise to move its center elsewhere.”¹¹⁰ The recorded neighbor testimonials were remarkable and put Sunrise on clear notice about the enormous harm it was imposing on the community. As one attendee put it: “What’s happening in our area is a crisis, and you need to treat it like a crisis.”¹¹¹

96. Another remarked how it is “unsafe” for her to “walk to her dentist” by Sunrise and that she had to change dentists to one that she drives to in another part of Austin.¹¹² That same resident no longer feels safe going to Randall’s.¹¹³ And she decried the “open-air drug market” a block away from Sunrise, where the homeless routinely “urinate” in public.¹¹⁴ She was very explicit about who causes this: “It’s because of that church [Sunrise]—You draw drug dealers to our homes!”¹¹⁵

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² <https://vimeo.com/949626899/d9dea43ee2> at 35:58-36:12

¹¹³ *Id.* at 36:12-20.

¹¹⁴ *Id.* at 36:20-35.

¹¹⁵ *Id.* at 36:40-50

97. Another resident remarked “They’re ruining our quality of life and putting us in danger.”¹¹⁶

98. Another resident remarked: “And [Sunrise] has to move. They do not have to do the work at this church. It’s ruining our community. Pastor Mark, you have adopted these people. Whether you like it or not, you have adopted them, but you do not provide a full solution.”¹¹⁷

99. Another resident explained how Sunrise directly facilitates “naked people masturbating in front of our schools, drug addicts, Narcan, drug use, filth, degeneracy.”¹¹⁸ He also remarked on how devastating the situation is for the elementary school. “Look at Joslin Elementary. Look at the park next to our school. Would you want your children to go there? I pick up 22 needles there in one day in that park. And **it comes from Sunrise church**. You navigate them there.”¹¹⁹

100. A business owner approximately a block from Sunrise explained how what Sunrise does “makes it so [homeless] people don’t leave this area.”¹²⁰ He went on to explain how he witnesses “masturbation in front of our store, in front of clients, fights, I saw a gentleman cut himself and draw on the sidewalk in his blood. I’ve personally cleaned up over 200 needles in my parking lot.”¹²¹

101. Another resident approximately a block from Sunrise explained how he “found needles” in his backyard and “broke up intercourse once,” and remarked how “it’s crazy to me

¹¹⁶ *Id.* at 43:50-55.

¹¹⁷ *Id.* at 1:00:00-.20

¹¹⁸ *Id.* at 1:04:05-20.

¹¹⁹ *Id.* at 1:07:45-1:08:05.

¹²⁰ *Id.* at 1:15-40-45.

¹²¹ *Id.* at 1:16:15-30.

that’s legal” given that Sunrise is “less than 500 feet from an elementary school.”¹²² He recently paid “5,000 dollars to put a fence” up.¹²³

102. Another resident complained “We have to understand we have a magnet in this neighborhood and that is Sunrise . . . It’s a small, outdated facility that cannot possibly handle the amount of clients that by Pastor Mark’s own admission show up there. And it is incompatible land use with an elementary school right across the street.”¹²⁴

103. A young parent explained how “Sunrise operating so close to an elementary school has created horrible safety issues for the students and staff.”¹²⁵ The same parent lamented how “It’s horrible that my sweet 2-year-old can’t play in her own front yard.”¹²⁶

104. Sunrise’s Executive Director Mark Hilbelink was at this community meeting. But he “did not take the podium to respond to anyone’s concerns.” Instead, he just indicated he “needs [more] funding” and that his “team was working to expand its digital services.”¹²⁷

E. The Nuisance Activity at Sunrise Continues Despite Community Complaints

105. All signs indicate that the dangerous and disorderly conduct at Sunrise continues up to the date of this filing. Over a five-day period from November 4 to November 8, 2024, the Office of the Attorney General of Texas observed Sunrise and the surrounding area.

¹²² *Id.* at 1:20:20-59.

¹²³ *Id.* at 1:21:10-20.

¹²⁴ *Id.* at 1:36:35-57.

¹²⁵ *Id.* at 1:39:50 – 40:05.

¹²⁶ *Id.* at 1:40:40 – 55.

¹²⁷ *See* Exhibit 54, <https://www.kxan.com/news/local/concerns-address-at-homelessness-community-meeting-in-south-austin/>.

106. During this observational period, Sunrise, the school, and the park were littered with drug paraphernalia, including used needles and a biohazard disposal box.¹²⁸ “Drug paraphernalia,” and “large deposits of trash and other refuse,” were “visible from, and in close proximity to, Joslin Elementary School.” The Office also observed a homeless individual in an apparent drug-induced episode only feet away from the Joslin Elementary School playground while children were outside playing.¹²⁹



¹²⁸ *Id.*

¹²⁹ See Exhibit 11, Affidavit of Will Taylor



Photos taken near Sunrise and Joslin Elementary School ¹³⁰

¹³⁰ See Exhibit 11, Will Affidavit

107. The Office also observed THRA distributing supplies on Sunrise property within view of the elementary school and during school hours.¹³¹



108. The Office also spoke to a man who identified himself as a Sunrise employee, who corroborated the fear that parents, residents, and business owners have adamantly expressed: Sunrise clientele poses a significant danger to the area, especially to the children who attend Joslin Elementary School.¹³²

109. This employee further revealed that just “three weeks ago,” a woman was “raped” in Joslin Park. The man who committed the rape, “Ruiz,” not only utilizes Sunrise’s services, but is currently or was at one time an employee of Sunrise. The employee informed his “boss” at

¹³¹ *Id.*

¹³² *Id.*

Sunrise about the rape. “Ruiz,” stays near Randall’s and is still in the area because “women are afraid” to speak up.¹³³

110. On November 5, 2024, the Office observed “an individual holding what appeared to be a covered machete” mere “feet from one of the elementary school entrances.” The Sunrise employee “explained that this individual is a regular presence, as are other individuals carrying weapons into Sunrise’s facilities.”¹³⁴

VI. APPLICATION FOR TEMPORARY INJUNCTION

111. Irrespective of any pin cites provided, the State incorporates all allegations in each and every preceding paragraphs as if fully set forth herein.

112. Sunrise’s operations should be temporarily enjoined pending a final ruling on the merits because Sunrise is operating as a common nuisance under the Civil Practice & Remedies Code, and as a public nuisance under the common law.

113. The State has an “intrinsic right to enact, interpret, and enforce its own laws.” *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015). That includes the authority to “temporarily enjoin those breaking” State law “pending trial,” *State v. Hollins*, 620 S.W.3d 400, 410 (Tex. 2020), as well as violations of Legislatively declared “existing policy.” *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). When the State brings enforcement actions and it is “determined that [a law] is being violated, it is within the province of the district court to restrain it.” *State v. Texas Pet Foods, Inc.*, 591 S.W.2d 800, 805 (Tex. 1979). A temporary injunction is warranted where the applicant proves (1) a cause of action against the adverse party; (2) a probable right to

¹³³ *Id.*

¹³⁴ *Id.*

the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). The State satisfies all three prerequisites here.

114. First, the State has two causes of action against Sunrise. (1) It has a statutory common nuisance claim under the Civil Practice & Remedies Code. Specifically, “the attorney general” has authority to “enjoin and abate a common nuisance” as defined in that code. Civ. Prac. & Rem. Code 125.002(a). And (2), the State also has a claim against Sunrise under common law public nuisance doctrine. *See, e.g., Riley v. Angelle*, 2022 WL 3092892, at *4 (Tex.App.—Houston [1st Dist.] Aug. 4, 2022); *see* Restatement (Second) of Torts § 821C (1979) (officer with “authority as a public official or public agency to represent the state” can bring public nuisance action). That is so because “a public nuisance affects the public at large.” *Goad v. KHBM Partners III, Ltd.*, 2021 WL 4597083, at *5 (Tex.App.—Beaumont, Oct. 7, 2021).

115. Second, the State has a probable right to the relief sought because Sunrise’s operations constitute (A) a statutory common nuisance and (B) a common law public nuisance.

116. **Statutory Common Nuisance**: Sunrise’s operations constitute a statutory common nuisance. “A common nuisance exists if [1] a person maintains a place to which persons habitually go for certain illegal purposes, [2] knowingly tolerates the activity, and [3] fails to make reasonable attempts to abate the activity.” *Lindsey v. State*, 2021 WL 3868310, at *5 (Tex. App. Aug. 31, 2021). All of these elements are satisfied here.

a. Persons habitually go to Sunrise to do drugs, one of the common nuisance statute’s prohibited illegal purposes. Civ. Prac. & Rem. Code § 125.0015(a)(4). *See, e.g., supra* at ¶¶ 30, 31, 39, 81, 85, and 88; Civ. Prac. & Rem. Code § 125.0015(a)(4). Indeed, Sunrise hosts an organization that distributes syringes to Sunrise’s clients. Countless used syringes have been found at and around Sunrise. And Sunrise’s neighbors have recounted how they suffer from the drug use

occurring at Sunrise. They regularly have to “pick[] up used needles,” find “used needles” on the doors and “drug kit paraphernalia” in their landscaping, observe Sunrise’s clients “set[ting] up meth labs,” and “on a daily basis” they “observe individuals who appear to be high or intoxicated” at Sunrise. *See, e.g., supra* ¶¶ 27, 33, 48, 63, 65, and 106. Police reports indicate that Sunrise’s clients are frequently in possession of drugs upon arrest. *See, e.g.,* ¶¶ 39, 73, 81, 85, and 89. Moreover, all of this conduct is illegal twice over because it occurs within 1,000 feet of an elementary school. *See, e.g., supra* ¶¶ 35, 36, 38, 39 and 47, 50, and 63; Tex. Health & Safety Code § 481.134. And the prevalence of this drug use amply shows that Sunrise’s clients do indeed engage in it “habitually.” *Compare, e.g., Nabilco Inc. v. State*, 2013 WL 119680, at *6 (Tex.App.—Jan. 10, 2013) (“twenty-one prostitution arrests and ten drug arrests” at location during “three-year period” sufficed to show habituality) *and Deblo, Inc. v. State*, 654 S.W.2d 807, 810-11 (Tex.App.—Houston [14th Dist.] 1983) (record “replete with testimony of solicitations for prostitution” sufficed to show habituality); *with Otten v. Town of China Grove*, 660 S.W.2d 565, 569 Tex.App.—San Antonio, 1983) (“few incidents of alleged gambling” on two Sundays was insufficient) *and Morgan v. City of Humble*, 598 S.W.2d 364, 365-66 (Tex.App.—Houston [14th Dist.] 1980) (single officer’s testimony about reputation of club was insufficient evidence).

b. Persons habitually go to Sunrise to engage in disorderly conduct. Under the Penal Code, disorderly conduct is defined to include “expos[ing] [ones] anus or genitals in a public area” with “reckless[ness] about whether another person may be present who will be offended or alarmed.” Penal Code 42.01(a)(10). Sunrise’s clients plainly do that. Local residents describe how Sunrise’s clients stand outside the school “nearly naked, wiping their bodies down for a bath,” or “naked from the waist down stumbling on the walk to school.” *See, e.g., supra* ¶ 55. Residents also describe regular “nudity and fornication,” “public urination and defecation,” and how

sometimes Sunrise clients even break into resident homes with their “buttocks completely exposed.” *See, e.g., supra* ¶¶ 46, 47, 49, 50, 51, 55, and 96 ; *see Tarr v. State*, 2004 WL 2251182 (Tex.App.—Houston [1st Dist.] Oct. 7, 2004) (disorderly conduct to urinate in public with genitals exposed). Local businesses have repeatedly been victimized by this behavior, such as with multiple incidents where Sunrise’s clients have masturbated in their stores or parking lots and tried to grab passing women. *See, e.g., supra* ¶¶ 72, 73; *Gatlin v. State*, 2020 WL 3865361 (Tex.App.—Fort Worth, July 9, 2020) (disorderly conduct for perpetrator to “hold[] his penis” and gesture at woman); *Kiser v. State*, 2015 WL 5139361 (Tex.App.—Tyler, Sept. 2, 2015) (similar). And Sunrise’s clients also engage in multiple other forms of disorderly conduct, including “fights with another in a public place,” Penal Code 42.01(a)(6); *See, e.g., supra* ¶¶ 47, 59, 62, and 70; and “mak[ing] unreasonable noise in a public place,” Penal Code 42.01(a)(5); *Clary v. State*, 2018 WL 651252, at *3 (Tex.App.—Beaumont, Jan. 31, 2018) (disorderly conduct includes “yelling, cursing, and threatening to fight with another individual . . . in [a] parking lot”); *Treto v. State*, 2015 WL 3631779, at *3 (Tex.App.—Houston [14th Dist.] June 11, 2015) (disorderly concludes when someone’s “yell[s]” are audible “from over 100 feet away after midnight”); *See, e.g., supra* ¶¶ 27, 44, 48, 55, and 56. The record is so replete with examples of this conduct that it amply shows that Sunrise’s clients engage in it “habitually.” *See, e.g., Nabilco Inc. v. State*, 2013 WL 119680, at *6 (Tex.App.—Houston [14th Dist.] Jan. 10, 2013) (“twenty-one prostitution arrests and ten drug arrests” at location during “three-year period” sufficed to show habituality) *and Deblo, Inc. v. State*, 654 S.W.2d 807, 810-11 (Tex.App.—Houston [14th Dist.] 1983) (record “replete with testimony of solicitations for prostitution” sufficed to show habituality).

c. Sunrise knowingly tolerates this activity. “Proof that an activity [defined as a common nuisance] is frequently committed at the place involved or that the place is frequently

used for [such an activity] . . . is prima facie evidence that the defendant knowingly tolerated the activity.” Civ. Prac. & Rem. Code § 125.004(a). Moreover, the record here is replete with “[e]vidence that persons have been arrested for or convicted of offenses” for common nuisance activity—and this likewise “show[s] knowledge on the part of the defendant with respect to the act that occurred.” Civ. Prac. & Rem. Code § 125.004(b); *See, e.g., supra* ¶¶ 80-92. And here, there is much more. For instance, Sunrise permits a syringe distribution service to visit its premise once a week. *See, e.g., supra* ¶¶ 22 and 107. Sunrise’s Executive Director, Defendant Hilbelink, was also told at a community meeting that “What’s happening in our area is a crisis, and you need to treat it like a crisis.” *Id.* ¶ 95; *5826 Interests, Ltd. v. City of Houston*, 2022 WL 16645503, at *3 (Tex.App.—Houston [14th Dist.] Nov. 3, 2022) (toleration of activity is inferred if owner is “made aware of the unlawful activity” but then the activity “continue[s] for months after that notification”). And the record is replete with examples of dangerous, drug-addled Sunrise clients being arrested who were known to, and served by, Sunrise for many years. *See, e.g., supra* ¶¶ 81 and 92. Sunrise cannot feign that it does not tolerate this activity. Indeed, it has in the past hesitated to call police or implored police to not press charges against some of these specific, dangerous individuals. *See, e.g., supra* ¶¶ 87, 88, 89, and 92.

d. And Sunrise has also failed to take reasonable steps to abate the nuisance. At the same community meeting where Hilbelink was told that “What’s happening in our area is a crisis,” he merely said that his team was “working to expand its digital services to help lessen the amount of people coming to the center in person.”¹³⁵ Under the circumstances present here, a mere attempt to expand digital services is wholly inadequate as a reasonable step to abate the nuisance. Sunrise

¹³⁵ *See* Exhibit 54, <https://www.kxan.com/news/local/concerns-address-at-homelessness-community-meeting-in-south-austin/>.

was obligated to go much further, including to establish a zero-tolerance policy for unlawful conduct, and to take at least some reasonable steps to enforce such a zero-tolerance policy. *See Nabilco*, 2013 WL 119680 at *6-8 (no reasonable abatement because, although club established zero tolerance policy, it failed to sufficiently enforce the policy). And there is no evidence that Sunrise has done that. Indeed, the evidence shows the complete opposite. As described *supra* ¶¶ 106-110, the criminal activity at Sunrise has been regularly occurring right up to the date of this filing.

117. **Common Law Public Nuisance**: For materially the same reasons as described above, Sunrise’s operations also amount to a common law public nuisance. “A public nuisance is a condition that amount to an unreasonable interference with a right common to the general public.” *Riley v. Angelle*, 2022 WL 3092892, at *4 (Tex.App.—Houston [1st Dist.] Aug. 4, 2022).

118. The circumstances described herein are materially similar to those that established public nuisance in the Arizona Supreme Court’s case of *Armory Park Neighborhood Association v. Episcopal Community Services*, 712 P.2d 914 (Ariz. 1985). The defendant operated a food kitchen for one hour a day. *Id.* at 916. But “patrons lined up well before this hour and often lingered in the neighborhood long after finishing their meal.” *Id.* And:

Transients frequently trespassed onto residents' yards, sometimes urinating, defecating, drinking and littering on the residents' property. A few broke into storage areas and unoccupied homes, and some asked residents for handouts. The number of arrests in the area increased dramatically. Many residents were frightened or annoyed by the transients and altered their lifestyles to avoid them.

Id. As described above, that is a near identical situation to the one present here.

119. A common law public nuisance is also present based on the standard assessment of public nuisance factors. “The question of reasonableness” in the public nuisance context “is determined by a variety of factors.” *Jamail v. Stoneledge Condo. Owners Ass’n*, 970 S.W.2d 673,

676 (Tex.App.—Austin, 1998). Those factors include (1) “[w]hether the conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort or the public convenience”; (2) “whether the conduct is proscribed by a statute, ordinance or administrative regulation”; or (3) “whether the conduct is of a continuing nature or has produced a permanent or long-lasting effect, and, as the actors knows or has reason to know, has a significant effect upon the public right.” Restatement (Second) of Torts § 821B. All of those factors show that a public nuisance exists here.

120. The conduct involves a significant interference with the public health, safety, peace, comfort, and convenience. The prevalence of syringes and public defecation show serious interference with public health. *See, e.g., supra* ¶¶ 25, 29, 31, 34, 36, 38, 41, 50, 71, 81, 99, 100, 101, and 106. The prevalence of break-ins, menacing conduct (including, but not limited to, machete-wielding), and fights show a clear interference with public safety and peace. *See, e.g., supra* ¶¶ 46, 47, 48, 52, 55, 56, 57, 59, 60, 62, 63, 67, 68, 70, and 72-78. And the screaming and public nudity are an obvious interference with the public comfort and convenience. *See, e.g., supra* ¶¶ 27, 44, 48, 55, 56, 73, 79, and 99. As set forth in the common nuisance discussion above, this conduct is proscribed by multiple statutes. And, as set forth in the common nuisance discussion above, the conduct is of a continuing nature and Sunrise knows and has reason to know of its effect. *See, e.g., supra* ¶¶ 80-92, 108-109.

121. **Third**, there is also probable, imminent, and irreparable injury absent an injunction. Texas suffers irreparable injury as a matter of law when entities like Sunrise break the law. *See, e.g., Shields v. State*, 27 S.W.3d 267, 273 (Tex. App.—Austin 2000, no pet.) (State need not prove likelihood of future violations to enjoin statutory violation); *Mortgage Banc & Trust, Inc. v. State*, 718 S.W.2d 865, 869 (Tex. App.—Austin 1986, no writ) (similar); *Rio Grande Oil Co. v. State*,

539 S.W.2d 917, 921 (Tex. App.—Houston [1st Dist.] 1976, writ ref'd n.r.e.) (similar). Moreover, the facts clearly show that Sunrise's surrounding neighborhood will continue to suffer severe injury if Sunrise's operations are not temporarily enjoined.

VII. BOND

122. As the protector of the public rights, the State is exempt from bond requirements. *See* Tex. Civ. Prac. & Rem. Code § 6.001.

VIII. PRAYER FOR RELIEF

The State incorporates by reference the preceding paragraphs as if fully set forth herein.

NOW THEREFORE, the State respectfully prays that the Court enter judgment in its favor and order the following:

- a. Temporary and permanent injunctive relief prohibiting Sunrise Homeless Navigation Center from conducting any operations whatsoever within 1,000 feet of any school, playground, or youth center, as those terms are defined in § 481.134 of the Texas Health and Safety Code; and
- b. Temporary and permanent injunctive relief prohibiting Sunrise Homeless Navigation Center from operating in a manner that frequently attracts patrons whose conduct violates the rights of neighborhood residents, school children, businesses, and the general public to peacefully use and enjoy the surrounding area.
- c. Injunctive relief pursuant to Civil Practice & Remedies Code § 125.002(e) ordering that Sunrise “be closed for one year.”
- d. The State be awarded any further relief to which it demonstrates entitlement under the law.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

RALPH MOLINA
Deputy First Assistant Attorney General

JAMES LLOYD
Deputy Attorney General for Civil Litigation

JOHNATHAN STONE
Chief, Consumer Protection Division

/s/ Clayton Watkins
CLAYTON WATKINS
Assistant Attorney General
State Bar No. 24103982
Office of the Attorney General of Texas
Consumer Protection Division
300 W. 15th St.
Austin, Texas 78701
Phone: (512) 463-2185
Fax: (512) 473-8301
Clayton.Watkins@oag.texas.gov

KARYN A. MEINKE
Assistant Attorney General
State Bar No. 24032859
Office of the Attorney General of Texas
Consumer Protection Division
112 E. Pecan Street, Suite 735
San Antonio, Texas 78205
Phone: (210) 225-4191
Fax: (210) 225-1075
karyn.meinke@oag.texas.gov

ATTORNEYS FOR THE STATE

DECLARATION

Pursuant to Tex. Civ. Prac. & Rem. Code § 132.001(f), CLAYTON ROBERT WATKINS submits this unsworn declaration in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by Tex. R. Civ. P. 682. The allegations herein are derived from information contained within the exhibits, as well as the Office of the Attorney General’s observations of Sunrise and the surrounding area. I am an employee of the following governmental agency: Texas Office of the Attorney General. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the factual statements in the foregoing are true and correct. Executed in Travis County, State of Texas, on the 26th day of November.

/s/ Clayton Watkins
CLAYTON WATKINS
Assistant Attorney General
State Bar. No. 24103982