

R-09-163

RESOLUTION NO. _____

A RESOLUTION CERTIFYING THE AMOUNT OF A CLEAN UP LIEN TO BE FILED WITH THE PULASKI COUNTY TAX COLLECTOR AGAINST CERTAIN REAL PROPERTY LOCATED AT 318 SHORT STREET IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; AND FOR OTHER PURPOSES.

WHEREAS, certain property located at 318 Short Street in the City of North Little Rock, Arkansas was declared to be a public nuisance, and the property was condemned on February 23, 2009 (see *Resolution No. 7403* attached hereto as Exhibit "A"); and

WHEREAS, Ark. Code Ann. § 14-54-903 provides that if the owner(s) or lien holder(s) of any lot or structure, after having been given seven (7) days' notice in writing to do so, refuses to remove, abate or eliminate any nuisance property, the City of North Little Rock is authorized to do whatever is necessary to correct the conditions and charge the cost thereof to the owner(s) of the real property; and

WHEREAS, according to the Pulaski County Assessor's Office, Parcel # 23N0710005600 described as 318 Short Street, North Little Rock, Arkansas, is owned by Larry Davis who, after receiving notice from the City regarding the conditions of the property, has failed to abate the conditions; and

WHEREAS, pursuant to Ark. Code Ann. §§ 14-54-901, *et seq.* and Act 854 of 2007, the City of North Little Rock is authorized to abate the nuisance conditions, establish a lien for the costs associated therewith, and collect the same in order to protect the health, safety and welfare of the community.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That upon a hearing of the facts, the City Council hereby declares that proper notice was given to the owner and lien holder(s) of the subject property to remove, abate or eliminate the public nuisance conditions on the subject property located at 318 Short Street; more specifically described as:

Lot 3, Block 15, Poe's Addition to the City of North Little Rock, Pulaski County, Arkansas. (Parcel #23N0710005600)

SECTION 2: That the City Council further declares that the owner and lien holder(s) of the subject property failed to remove, abate or eliminate the public nuisance conditions at the property after it was condemned pursuant to Resolution No. 7403 in the time allowed by law, and that the City then abated the public nuisance conditions at a cost of no less than **\$2,211.66**. (See *Affidavit* attached hereto as Exhibit "B".)

SECTION 3: That the City Council further declares that proper notice was given to the owner and lien holder(s) of the subject property that a public hearing would be held on November 9, 2009 (see *Proof of Publication* attached hereto as Exhibit "C") to determine the proper amount, if any, that should be filed as a clean up lien pursuant to Act 854 of 2007.

SECTION 4: That the City Council further declares that upon presentation of facts at a public hearing, the City is entitled to a priority clean up lien in the amount of **\$2,211.66** against the subject property. This lien, as provided for in Arkansas Code Ann. § 14-54-903, may be enforced and collected at any time within ten (10) years after the lien has been filed in either one of the following manners as provided for in Ark. Code Ann. § 14-54-904:

- (1) By an action for foreclosure in circuit court; or
- (2) The amount so determined at this public hearing, plus ten percent (10%) penalty for collection, to be certified to the Pulaski County Tax Collector to be placed on the tax books as delinquent taxes and collected accordingly.

SECTION 5: That if the owner or lien holder(s) fail to pay the amount of the herein certified clean-up lien in the time allowed by law, the City Attorney is hereby directed to pursue any and all proper legal actions for collection of the amount of said lien plus all applicable costs.

SECTION 6: That the provisions of this Resolution are hereby declared to be severable, and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 7: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

SPONSOR:

Mayor Patrick H. Hays

APPROVED:

Mayor Patrick H. Hays

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b