R-22-229

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 4316 BURKES AVENUE IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; AND FOR OTHER PURPOSES.

WHEREAS, certain property located at 4316 Burkes Avenue in the City of North Little Rock, Arkansas was declared to be a public nuisance, and the property was condemned on June 27, 2022 (see Resolution No. 10309 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 No. 33N1640002000, described as 4316 Burkes Avenue, North Little Rock, Arkansas, is owned by Robert D. Smeby 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(s) and lien holder(s) of the subject property to remove, abate or eliminate the public nuisance conditions on the subject property located at 4316 Burkes Avenue; more specifically described as:

LOT 23 OF THE C. W. HARROD ADDITION TO THE CITY OF NORTH LITTLE ROCK, PULASKI COUNTY, ARKANSAS.

SECTION 2: That the City Council further declares that the owner(s) 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. 10309 in the time allowed by law, and that the City then abated the public nuisance conditions at a cost of no less than $8,924.75 (See Affidavit attached hereto as Exhibit B.)

SECTION 3: That the City Council further declares that proper notice was given to the owner(s) and lien holder(s) of the subject property that a public hearing would be held on October 24, 2022 (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 **$8,969.75** (costs of abatement plus an additional $45.00 filing fee for the subject lien certification) 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 the 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(s) 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: APPROVED:

_____ _____
Mayor Terry C. Hartwick

SPONSOR: ATTEST:

Terry C. Hartwick
Mayor Terry C. Hartwick by AF Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OF THE CITY ATTORNEY/kt

FILED _____ A.M. _____ P.M.
By _____
DATE _____

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY _____

EXHIBIT
A

2022048440
PRESENTED: 07-12-2022 08:01:45 AM RECORDED: 07-12-2022 08:01:45 AM
In Official Records of Terri Hollingsworth Circuit/County Clerk
PULASKI CO, AR FEE $25.00

R-22-127

RESOLUTION NO. 10309

A RESOLUTION DECLARING CERTAIN BUILDINGS, HOUSES AND OTHER STRUCTURES LOCATED AT 4316 BURKES AVENUE IN THE CITY OF NORTH LITTLE ROCK TO CONSTITUTE A PUBLIC NUISANCE AND CONDEMNING SAID STRUCTURES; PROVIDING A PERIOD OF TIME FOR PROPERTY OWNER TO ABATE SAID NUISANCE; AND FOR OTHER PURPOSES.

WHEREAS, the buildings and structures whose location is set forth herein are vacant and have become run down, dilapidated, unsightly, dangerous, noxious, unsafe, not fit for human habitation and detrimental to the public welfare of North Little Rock citizens and residents; and

WHEREAS, the condition of such property constitutes a serious fire and health hazard to the City of North Little Rock, and unless immediate actions are taken to remedy this situation by removing, razing and abating said nuisance, there is a great likelihood that the surrounding property may be destroyed by fire originating from such unsafe and hazardous structures, and also that since structures are without proper sanitary facilities and as such are unsafe and hazardous and a breeding place for rats, rodents and other dangerous germ carriers of diseases, such buildings constitute a serious hazard to the health and safety of the citizens of North Little Rock, and they should be removed or razed for the purpose of eliminating such hazards.

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

SECTION 1: That the City Council hereby declares the buildings, houses and other structures located at the property identified in Section 2 below to be vacant and run down, dilapidated, unsafe, unsightly, dangerous, noxious, unsanitary, a fire hazard, a menace to abutting properties, with the current condition of said structures not being fit for human habitation; and because of such conditions, the City Council declares the same to be condemned as a public nuisance and is ordered abated, removed or razed by the owner thereof.

SECTION 2: That the owners of record of the following described property are hereby directed to raze the same or otherwise abate the said nuisance within thirty (30) days after the posting of a true copy of this Resolution at a conspicuous place upon the structure constituting the nuisance described herein, to-wit:

Lot 23 of the C. W. Harrod Addition to the City of North Little Rock, Pulaski County, Arkansas. (Parcel No. 33N1640002000 located at 4316 Burkes Avenue and owned by Robert D. Smeby).

SECTION 3: If the aforementioned structures have not been razed and/or removed within thirty (30) days after posting a true copy of this Resolution at a conspicuous place upon the structures constituting the nuisance, or the nuisance otherwise abated, the structures shall be torn down and/or removed by the Director of Code Enforcement or her duly designated representative.

Each day after the aforesaid thirty (30) days in which said nuisance is not abated shall constitute a separate and distinct offense punishable by a fine of $250.00 for each such separate and distinct offense.

SECTION 4: 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 5: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

6/27/2022

APPROVED:

Terry C Hartwick

Mayor Terry C. Hartwick

SPONSOR:

Terry C. Hartwick

Mayor Terry C. Hartwick

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields w/ PRM

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED 11:35 A.M. P.M.

By M.M. Lee

DATE 6/27/22

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY

STATE OF ARKANSAS §
§ SS
COUNTY OF PULASKI §

I, Diane Whitbey, City Clerk and Treasurer for the City of North Little Rock, Arkansas, do hereby certify that the foregoing instrument is a true and correct copy of the original of RES 10309
Book No. 82 filed in this office on the 27
day of June, 2022.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this office this 1
day of July, 2022.

Diane Whitbey, City Clerk and Treasurer

By: Talor Shinn

(SEAL)

EXHIBIT
B

STATE OF ARKANSAS) Parcel # 33N1640002000

AFFIDAVIT OF STATUTORY LIEN

Comes the City of North Little Rock, Arkansas by and through Felecia McHenry, who states on oath that:

My name is Felecia McHenry, I am the Director of Code Enforcement for the City of North Little Rock, Arkansas ("the City"), and as such I am authorized to make this affidavit.

Acting pursuant to Ark. Code Ann. § 14-56-203, the North Little Rock City Council, on **June 27th , 2022** Resolution # **10309** condemning a structure or structures located on the following described real property located in the City of North Little Rock, Pulaski County, Arkansas:

LEGAL DESCRIPTION AND ADDRESS OF PROPERTY
4316 Burks.
Lot 23 Block 0 Harrod C W Addition
City of North Little Rock, AR

After notice of the above mentioned condemnation was given to the owner's and /or heirs **Robert D. Smeby** and due to the Owner's and/or heirs failure to raze or remove the structure(s), the City removed said structure(s) incurring a cost of **$8,924.75**

DATE	TYPE OF WORK		COST	
Date Issued	Fee	Amount	Amount Paid	Due Date
5/27/2022	Admin/Collection Fees	$60.00	$0.00	6/27/2022
5/27/2022	Filing Fee	$50.00	$0.00	6/27/2022
5/27/2022	Postage Fee	$39.30	$0.00	6/27/2022
5/27/2022	Legal Notice	$25.45	$0.00	6/27/2022
5/27/2022	Demolition	$8,750.00		6/27/2022
Total Due: $8,924.75				

The City has made demand for payment and gave the debtor notice of the City's intent to file this lien and the debtor has failed to make payment. No part of the debt has been paid and the City of North Little Rock claims a lien on this real property, pursuant to Ark. Code Ann. § 14-54-903(b), in the amount of **$8,924.75** to secure this indebtedness.

WITNESS my hand this 21 day of Sept, 2022.

PULASKI COUNTY
CITY OF NORTH LITTLE ROCK

Felecia McHenry
Director of Code Enforcement

SUBSCRIBED AND SWORN to before me this 21 day of September 2022.

NOTARY PUBLIC

My Commission Expires: 08/16/2032

KARLA JANET HERNANDEZ
NOTARY PUBLIC
PULASKI COUNTY, ARKANSAS
COMM. EXP. 08/16/32
COMMISSION NO. 12720088

LEGAL NOTICE OF CLEAN-UP LIEN-Date: September 21, 2022. To: The hereinafter named owners and mortgage holders of record and all others who claim an interest in the hereinafter described properties:

1. 4316 Burks Avenue
Robert Smeby
Lot: 23 Block: 0 Sub: Harrod CW
Parcel 33N1640002000
City of North Little Rock, AR

Notice is hereby given that a Public Hearing will be held to certify the amount of a Clean Up Lien pursuant to Ark. Code Ann 14-54-903 against the owners of / and the above described land due to the owner's failure to abate a Public Nuisance at said land. The Public Hearing will be heard before the North Little Rock City Council at the **October 24th, 2022.** Meeting at 6:00 p.m. held at (City Hall 300 Main Street North Little Rock.) The owners have the right the contest at the amount of the Clean-up Lien. Felecia McHenry, Code Enforcement Director **DR1T-09/27/22**

THE DAILY RECORD

tabbies EXHIBIT 7

STATE OF ARKANSAS

Pulaski County

I, Bobby Burton, so solemly swear that I am the COO of the Daily Record, a newspaper of general circulation in Pulaski County, State of Arkansas; that I was COO of The Daily Record at and during the publication of the annexed legal notice in the matter of:

Clean Up Lien Notification for October 24th, 2022 City Council Meeting

pending in the Court in said County, and at dates of the several publications of said legal notice hereinafter stated, and that during said periods and at said dates, said newspaper was published and had a bona fide circulation in said County and State; that said newspaper had been regularly published in said County and State, and had a bona fide circulation therein for the period of one month before the date of the first publication of said legal notice; and that said legal notice was published in the regular daily issues of said newspaper on the following days:

09/27/22

This notice was printed and published online at www.dailyrecord.us and www.publicnoticeads.com for the duration of the run dates listed above.

William R Burton
COO

Subscribed and sworn before me this 27th of September, 2022

Robin Hill
Notary Public

ROBIN HILL NOTARY PUBLIC #12711558 GRANT COUNTY, ARKANSAS

Clean Up Lien