

RESOLUTION NO. _____

Resolution Of The City Council Of The City Of Emeryville Confirming the Public Works Director's Report And Authorizing Costs Incurred by the City of Emeryville In the Matter of the Appeal From Notice and Order of Intention to Demolish Property Owned by André Carpiaux, 1264 Ocean Avenue, Emeryville CA (APN 049-1469-008), Case No. ADBC 15-001 To Be Charged As A Special Assessment In the Amount of \$50,145.75 Against the Property; And Directing the City Manager To Take Related Actions

WHEREAS, on July 30, 2015, the Chief Building Official for the City of Emeryville issued a Notice and Order regarding violations of the 1994 Uniform Code for the Abatement of Dangerous Buildings at 1264 Ocean Avenue, Emeryville, CA ("**Property**"), and ordering the property owner to abate the violations; and

WHEREAS, the property owner, Mr. Carpiaux, took no action to begin abatement of the violations; and

WHEREAS, on October 19, 2015, the Chief Building Official issued a subsequent Notice and Order regarding violations of the Uniform Code of the Abatement of Dangerous Buildings, and ordering the demolition of the structure on the Property; and

WHEREAS, Mr. Carpiaux appealed this Notice and Order to demolish ("the **Appeal**"); and

WHEREAS, pursuant to Chapter 12 of Title 8 of the Emeryville Municipal Code in effect at the time of the Appeal (relevant code is now Chapter 16 of Title 8 of the Emeryville Municipal Code), the City Board of Appeals through a subset of the Board of Appeals, the City Board of Examiners, heard the Appeal as provided by the 1994 Uniform Code for Abatement of Dangerous Buildings; and

WHEREAS, at the conclusion of the hearing, the Board of Examiners found numerous violations of the 1994 Uniform Code of the Abatement of Dangerous Buildings, and found that "rehabilitation of the premises is not only logistically infeasible, but would [create] a greater economic burden to Mr. Carpiaux than demolition and construction of a new structure."; and

WHEREAS, the Board of Appeals adopted the recommended decision of the Board of Examiners to uphold the Notice and Order to demolish the structure on the Property at a public meeting held on August 23, 2016 ("**Final Decision**"); and

WHEREAS, on August 25, 2016, Mr. Carpiaux was served with the Final Decision; and

WHEREAS, on December 22, 2017, the City obtained an abatement warrant in Alameda Superior Court Case No. 2017-3912 for the purposes of implementing the Final Decision by demolishing the structure and carrying out related nuisance abatement activities ("**Abatement Warrant**"); and

WHEREAS, pursuant to Government Code section 38773.5, the City may adopt an ordinance to establish a procedure to make the cost of the abatement of a nuisance upon a parcel of land a special assessment against that parcel; and

WHEREAS, Chapter 9 of the 1994 Uniform Code for the Abatement of Dangerous Buildings, in effect at the time of the abatement proceedings, and adopted by Ordinance No. 95-101, sets forth the procedures to recover the costs of abatement as a special assessment against the Property; and

WHEREAS, the Acting Public Works Director delivered a report to the City Clerk detailing the costs incurred by the City to abate the nuisance at the Property ("**Report**"); and

WHEREAS, on February 6, 2018, the City Council adopted Resolution No. 18-12 setting a public hearing for February 20, 2018, at which it would consider the Report, and directing the City Clerk to provide notice as required under the 1994 Uniform Code for the Abatement of Dangerous Buildings for said public hearing; and

WHEREAS, notice of the public hearing was delivered to the individuals identified in the Report; and

WHEREAS, at a public hearing held on February 20, 2018, the City Council considered a written request from the Property owner, and oral testimony from other members of the public to continue the public hearing, and continued the public hearing to its regular meeting on March 20, 2018; and

WHEREAS, notice of the continued public hearing was delivered to the individuals identified in the Report; and

WHEREAS, at a public hearing held on March 20, 2018, the City Council has considered the staff report, and its attachments (including the Report), and any written objections and testimony offered at the public hearing, and now therefore be it

RESOLVED, the City Council confirms the Report and finds that the cost to abate the nuisance at the Property is \$50,145.75 (fifty thousand, one hundred, forty-five dollars, and seventy-five cents); and, be it, further

RESOLVED, the City Council authorizes a special assessment to be charged against 1264 Ocean Avenue, Emeryville, CA, (APN 049-1469-008) in the amount of **\$50,145.75 (Fifty Thousand, One Hundred, Forty-Five Dollars, and Seventy-Five Cents)** for costs incurred by the City of Emeryville in the matter of the appeal from Notice and Order of Intention to Demolish Property Owned by Andre Carpiaux, 1264 Ocean Avenue, Emeryville CA (APN 049-1469-008); Case No. ADBC 15-001, and further authorizes the City Manager to take all actions to charge such special assessment against the Property.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, March 20, 2018, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY