



SALT LAKE CITY CORPORATION SPECIAL ASSESSMENT AREA

Notice of Assessment Interest for District C, Extension 109014, SAA 927

Exhibit 1

Date Run: 6/7/2012 7:55:03 AM

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Prop ID: 08 36 451 006 0000

Prop Addr: 121 N 300 W

Account: 927-10358

Owner Info: FONG, LEONARD K M; TR

ATTN

1

0104

COM 235.2 FT W FR SE COR LOT 1 BLK 97 PLAT A SLC SUR W 94.8
FT N 275 FT E 330 FT S 178 FT W 108.4 FT N 33 FT W 93.8 FT N
6.7 FT W 33 FT S 136.7 FT TO BEG. 6531-2199 6584-2932

Prop ID: 08 36 451 007 0000

Prop Addr: 320 W NORTH TEMPLE ST

Account: 927-10359

Owner Info: FONG, LEONARD K M; TR

ATTN

2

0104

COM 101.1 FT W FR SE COR LOT 1 BLK 97 PLAT A SLC SUR W 134.1
FT N 136.7 FT E 33 FT S 6.7 FT E 93.8 FT S 33 FT E 7.3 FT S
97 FT TO BEG. 6531-2199 6584-2932

ORDINANCE NO. 9 of 2012

An ordinance (the "2012 Assessment Ordinance") approving the assessment list and levying assessments upon property in Salt Lake City, Utah Special Assessment Area (North Temple Viaduct) No. 109014 (the "Assessment Area"), establishing the effective date of the 2012 Assessment Ordinance; providing for a procedure to contest an assessment; and related matters.

WHEREAS, the Council adopted a Notice of Intention (the "Notice of Intention") to designate the Assessment Area on November 5, 2009, which (a) gave notice of its intention to (i) finance a portion of the costs of certain infrastructure improvements consisting of the replacement of the existing North Temple Viaduct with an auto/light rail viaduct and related improvements, together with all other miscellaneous work necessary to complete said improvements in a proper and workmanlike manner (collectively, the "Improvements"), (ii) designate a proposed assessment area, and (b) provided a date for a protest hearing; and

WHEREAS, said Notice of Intention was published once a week for four consecutive weeks beginning November 14, 2009 and ending November 30, 2009, and was mailed to the owners of property proposed to be assessed as provided by law; and

WHEREAS, in accordance with the Notice of Intention and as required by law, a hearing was held before the Council on December 8, 2009 (the "2009 Hearing"); and

WHEREAS, prior to and at the 2009 Hearing, persons having an interest in the Assessment Area were allowed to protest the proposed Improvements and/or the designation of the Assessment Area; and

WHEREAS, after protests against the designation of the Assessment Area were heard and considered, the Council designated the Assessment Area by resolution adopted on February 2, 2010; and

WHEREAS, on July 19, 2011, the Council adopted a resolution appointing a board of equalization and review (the "Board") to hear and consider any objections and to make corrections to the proposed assessments which the Board deemed inequitable or unjust and to accomplish its responsibilities, the Board held hearings on August 17, 18, and 19, 2011, as required by law; and

WHEREAS, the Board has submitted to the Council its Findings and Recommendation which have been accepted by the City Council; and

WHEREAS, the Council now desires to confirm the assessment list and to levy assessments in accordance with this assessment ordinance:

BE IT ORDAINED BY THE CITY COUNCIL (THE "COUNCIL") OF SALT LAKE CITY (THE "CITY"), UTAH:

Section 1. Determination of Costs. The Council has determined that the estimated acquisition and construction costs of the Improvements within the Assessment Area, including overhead costs, is \$71,180,000, \$4,308,911.20, of which shall be levied against the properties benefited within the Assessment Area.

Section 2. Approval of Assessment List; Findings. The Council confirms and approves the Assessment Area assessment list, as revised, a copy of which is attached hereto as Exhibit B and incorporated herein by reference (the "Assessment List"). The Council has determined that the Assessment List is just and equitable; that each piece of property to be assessed within the Assessment Area will be benefited in an amount not less than the assessment to be levied against said property; and that no piece of property listed in the assessment list will bear more than its proportionate share of the cost of the Improvement within the Assessment Area.

Section 3. Levy of Assessments. The Council hereby levies assessments upon the real property identified in the Assessment List. The assessments levied upon each parcel of property therein described shall be in the amount set forth in the Assessment List as adjusted. An assessment is levied upon each parcel of property in the Assessment Area in accordance with the benefit received from the Improvements.

Section 4. Amount of Total Assessments. The assessments do not exceed in the aggregate the sum of: (a) the contract price of the Improvements; (b) the acquisition price of the Improvements; (c) the reasonable cost of (i)(A) utility services, maintenance, and operation to the extent permitted by the Act, and (B) labor, materials, or equipment supplied by the City, if any, (ii) economic promotion activities, or (iii) operation and maintenance costs; (d) the price or estimated price of purchasing property; (e) connection fees, if any; (f) the estimated interest on interim warrants and bond anticipation notes issued with respect to the assessment area, if any; (g) overhead costs not to exceed fifteen percent (15%) of the sum of (a), (b), (c), and (e); and (h) one half the cost of grading changes as provided in the Act.

Section 5. Method and Rate. The cost of a portion of the Improvements to be assessed against the benefited properties within the Assessment Area and the method of assessment are as follows:

<u>Proposed Improvements</u>	<u>Assessment Rate</u>	<u>Unit of Assessment</u>
Replacement of existing North Temple Viaduct with an auto/light rail viaduct and related improvements	.051*	Taxable or final value of property as set forth in tax rolls of Salt Lake County

* The assessment rate will not exceed .051, except as adjusted by the Board of Equalization.

Section 6. Payment of Assessments.

(a) The whole or any part of an assessment may be paid without interest within twenty-five (25) days after this 2012 Assessment Ordinance is published as required by the Act (the "Effective Date"). The whole or any part of an assessment not paid within such 25-day period shall be payable over a period of twenty (20) years beginning on or about September 7, 2012, in twenty (20) substantially equal annual principal and interest installments due on each anniversary date of the first assessment installment payment date. Interest on the unpaid balance of an assessment shall accrue at the rate of approximately 3.75% per annum from the Effective Date of this 2012 Assessment Ordinance until paid in full and each assessment installment shall include one year's interest on the unpaid assessment amount. The final interest rate shall be the same net effective rate as the City will pay on its sales tax bonds it anticipates issuing to finance a portion of the cost of the Improvements, provided, however, that in the event an assessment is not paid when due and payable, interest shall accrue on the default amount at the Default Rate as those terms are defined and as described herein.

(b) After the above-referenced 25-day period, each assessment may be paid prior to the date on which it becomes due, but any such prepayment must include an additional amount equal to the interest which would accrue on the assessment to the next succeeding date on which interest is payable.

(c) In the event all or any portion of the property assessed hereunder is subdivided into smaller parcels as evidenced by a subdivision plat approved by the Council and recorded in the Salt Lake County Recorder's office, the entire assessment levied against said property shall, as a condition to approval of said subdivision plat, be prepaid in whole. A release of the assessment lien will be delivered by the City to the property owners at the time the assessment balance is paid in full.

Section 7. Default in Payment. If a default occurs in the payment of any assessment installment when due, the City may (a) declare the delinquent amount to be immediately due and subject to collection, or (b) accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and interest then due to be immediately due and payable. Additional interest shall accrue and be paid on all amounts declared to be delinquent or accelerated and immediately due and payable at the same rate as (i) is applied to delinquent real property taxes for the year in which the assessment installment becomes delinquent (the "Delinquent Rate") or (ii) as the City Council determines. In addition to interest charges at the Delinquent Rate, costs of collection, including attorneys fees and court costs ("Collection Costs"), as determined by the City Treasurer or required by law, may be charged and paid on all amounts declared to be delinquent or accelerated and immediately due and payable. In lieu of accelerating the total assessment balance when one or more assessment installments become delinquent, the City may elect to bring an action to collect only the delinquent portion of the assessment plus interest at the Delinquent Rate and Collection Costs.

Upon any default, the City Treasurer shall give notice in writing of the default to the owner of the property in default as shown by the last available equalized assessment rolls. Notice shall be effective upon deposit of the notice in the U.S. Mail, postage prepaid, and addressed to the owner as shown on the last equalized assessment rolls for the City or on the official ownership records of Salt Lake County. The notice shall provide for a period of thirty (30) days in which the owner shall pay the installments then due and owing together with accrued interest at the regular rate plus costs as determined by the City Treasurer. If the City elects to use the enforcement remedy involving acceleration, the Notice shall also declare that after the thirty (30) day period the City shall accelerate the then unpaid balance of the principal of the assessment to be immediately due and payable together with Collection Costs and interest on the entire unpaid balance to accrue from the date of delinquency at the Delinquent Rate. Thereafter, the City may commence foreclosure proceedings in the manner provided for actions to foreclose mortgage liens or trust deeds. If the City elects to utilize the trust deed enforcement remedy, the City Attorney shall designate a trust deed trustee for purposes of the enforcement action. If at the sale no person or entity shall bid and pay the City the amount due on the assessment plus interest and costs, the property shall be deemed sold to the City for those amounts. The City shall be permitted to bid at the sale.

The remedies provided herein for the collection of assessments and the enforcement of liens shall be deemed and construed to be cumulative and the use of any one remedy for collection or enforcement shall not deprive the City of the use of any other remedy or means. The amounts of accrued interest and all costs of collection shall be added to the amount of the assessment up to the date of foreclosure sale.

Section 8. Remedy of Default. If prior to the final date payment may be legally made under a final sale or foreclosure of property to collect delinquent assessments, or prior to the end of the three-month reinstatement period provided by Section 57-1-31, Utah Code Annotated 1953, as amended, in the event the collection is enforced through the method of foreclosing trust deeds, the property owner pays the full amount of all unpaid installments of principal and interest which are past due and delinquent with interest on such installments at the Default Rate to the payment date, plus all trustee's fees, attorneys' fees, and other costs of collection, the assessment of said owner shall be restored and such default removed, and thereafter the owner shall have the right to make the payments in installments as if the default had not occurred, subject to any default that may thereafter occur and the exercise of remedies as herein provided with respect thereto. Any payment made to cure a default shall be applied first, to the payment of attorneys' fees and other costs incurred as a result of such default; second, to interest charged on past due installments at the Default Rate, as set forth above; third, to the interest portion of all past due assessments; and last, to the payment of outstanding principal.

Section 9. Lien of Assessment. The assessments, any interest accruing and the penalties, trustee's fees, attorneys' fees, and other costs of collection shall constitute a lien against the property upon which the assessment is levied on the effective date of this Ordinance. Said lien shall be superior to the lien of any trust deed, mortgage, mechanic's, or materialman's lien, or other encumbrance and shall be equal to and on a

parity with the lien for general property taxes. The lien shall continue until the assessment and any interest, penalties, and costs on it are paid, notwithstanding any sale of the property for or on account of a delinquent general property tax, special tax, or other assessment or the issuance of tax deed, an assignment of interest by the governing entity or a sheriff's certificate of sale or deed.

Section 10. Contestability. No assessment shall be declared invalid or set aside in whole or in part because of any error or irregularity which does not go to the equity or justice of the assessment or proceeding. Any party who has not waived his or her objections to the assessment may commence a civil action against the City to enjoin the levy or collection of the assessment or to set aside and declare unlawful this 2012 Assessment Ordinance.

Such action must be commenced and summons must be served on the City not later than thirty (30) days after the Effective Date of this 2012 Assessment Ordinance. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint which the party was authorized to make by statute but did not timely make or any complaint that does not go to the equity or justice of the assessment or proceeding.

After the expiration of the thirty (30) day period provided in this section, the assessments levied in the Assessment Area shall become incontestable as to all persons who have not commenced the action provided for in this section; and no suit to enjoin the levy, collection, or enforcement of the assessments, or to attack or question the legality of the assessments may be commenced in this state, and no court shall have authority to inquire into these matters.

Section 11. Notice to Property Owners. The City Treasurer is hereby authorized and directed to give notice of assessment by mail to the property owners in the Assessment Area. Said notice shall, among other things, state the amount of the assessment and the date for payment. A copy of the form of notice of assessment is available for examination upon request at the office of the City Recorder.

Section 12. All Necessary Action Approved. The officials of the City are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this 2012 Assessment Ordinance.

Section 13. Repeal of Conflicting Provisions. All ordinances or parts thereof in conflict with this 2012 Assessment Ordinance are hereby repealed.

Section 14. Publication of Ordinance. Immediately after its adoption, this 2012 Assessment Ordinance shall be signed by the Mayor and the City Recorder and shall be recorded in the ordinance book kept for that purpose. This 2012 Assessment Ordinance shall be published once in The Salt Lake Tribune, a newspaper published and having general circulation in the City, and shall take effect immediately upon its passage and approval and publication as required by law.

Section 15. Notice of Assessment Interest. The City Treasurer is hereby authorized and directed to file a Notice of Assessment Interest with the Salt Lake County

Recorder within five (5) days after the twenty-five (25)-day prepayment period provided in Section 6. Such Notice shall (1) state that the City has an assessment interest in the assessment property, and (2) describe the property assessed by legal description and tax identification number.

PASSED AND APPROVED by the City Council of the City, this February 21, 2012.

(SEAL)

By: /s/ Søren Dahl Simonsen
Chair

ATTEST:

By: /s/ Beverly Jones
Deputy City Recorder