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ERNEST D ROWLEY, WEBER COUNTY RECORDER
09-JUL-12 428 PM FEE \$.00 DEP JKC
REC FOR: OGDEN CITY

ORDINANCE NO. 2012-39

AN ORDINANCE OF OGDEN CITY, UTAH, PROVIDING FOR THE CREATION OF A NEW SPECIAL ASSESSMENT AREA DESIGNATED THE OGDEN CITY, UTAH, CENTRAL BUSINESS IMPROVEMENT DISTRICT NO. 2; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE JUNE 26, 2012.

WHEREAS, THE Ogden City Council has determined that the City of Ogden has benefitted from the multiple economic promotion activities held in the downtown area and that said activities have benefitted the city as a whole in branding and promoting the assets and the offerings of the city to people who live outside city boundaries as well as to companies and other economic investment groups outside the local region and nationwide who are interested in bringing their business to the city; and

WHEREAS, the Ogden City Council also acknowledges that certain businesses located in the downtown business district enjoy a close proximity to the downtown economic promotion activities and benefit from being in the downtown business district overall; and

WHEREAS, the Ogden City Council has determined that the Ogden City, Utah Central Business Improvement District No. 2 be created, as required by statute, and be named the Ogden City, Utah, Central Business Improvement District No. 2, (the "District") and that assessments should be levied on all parcels within the District in accordance with Utah State law.

The Council of Ogden City hereby ordains:

SECTION 1. History and Purpose:

A. The Utah Municipal Improvement Act (Utah Code Annotated §17A-3-301, et. seq.,) authorizes municipalities to create special improvement districts for "economic promotion activities".

B. The Ogden City Council has created special improvement districts within the Central Business Improvement District in the past in order to promote economic activities in downtown Ogden City.

C. It is the purpose and intent of this ordinance to establish a new Special Assessment Area which is the precursor city action to levying an assessment on each qualified parcel within the District.

SECTION 2. Creation of Special Assessment Area: The Ogden City Council hereby creates and designates a new downtown special assessment area for the funding of economic promotion activities entitled the Ogden City, Utah, Central Business Improvement District No. 2. The Ogden City Council further verifies that the boundaries of the District shall be: (1) Northern Boundary: All business/commercial properties that border the south bank of the Ogden River; (2) Southern Boundary: All business/commercial properties on each side of 28th Street between Adams Avenue to Washington Boulevard, then both sides of Washington Boulevard between 28th Street and 27th Street, then both sides of 27th Street between Washington Boulevard and Wall Avenue; (3) Eastern Boundary: All business/commercial properties on both sides of Adams Avenue between the Ogden River and 28th Street; (4) Western Boundary: All business/commercial properties on both sides of Wall Avenue between the Ogden River and 27th Street.

SECTION 3. Duration of Special Assessment Area: The District created under this ordinance shall last for three (3) years from the effective date of this ordinance, June 26, 2012. This Special Assessment Area shall therefore terminate on June 25, 2015.

SECTION 4. Determination of Costs: All costs and expenses for economic promotion activities to be financed by assessments on property within the area have been estimated and included in the Districts' budget.

SECTION 5. Effect of Special Assessment Area Creation: All business/commercial properties within the boundaries of the District will be subject to an assessment as determined and established by Ogden City ordinance.

SECTION 6. Report of Estimated or Actual Costs of Proposed Activities:

The City Council of Ogden City hereby accepts and adopts the findings and recommendations provided by the city administration of all estimated and/or actual costs for all proposed economic promotion activities outlined in their Detailed Activities Report, which was submitted to all property owners prior to passage of this ordinance, as required by law. The city council verifies that all proper steps have been taken to ensure that all contemplated property owners within the District have had an opportunity, as provided by law, to review and object to any of the proposed activities on said report.

SECTION 7. Contestability: No assessment shall be declared void or set aside in whole or in part in consequence 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 objections to same as provided by statute may commence a civil action against the city to enjoin the levy or collection of the assessment or set aside and declare unlawful this ordinance. Such action must be commenced and summons must be served on the city no later than thirty (30) days after the effective date of this ordinance. Both commencement of the action and service of summons must be completed within the thirty (30) day time frame in order for a civil action to stand. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint or argument which the party was authorized to make by statute but did not timely make during the formal protest/objection hearing period prior to adoption of the ordinance. If property owners are silent during the protest/objection period prior to adoption of this

ordinance, those owners are barred from filing a civil lawsuit contesting the adoption of this ordinance.

SECTION 8. Adequate Protest Period: The city council confirms that all proper protocol and procedure were followed in granting property owners the time necessary, as required by Utah State Code Ann. §11-42-203, to file protests in response to this ordinance. The council further verifies that either no protest was filed with the council prior to adoption of this ordinance or in the alternative that any protests that were filed did not meet the adequate protest minimum standards as allowed by law.

SECTION 9. Notice to Property Owners: The city council verifies that all notice requirements pertaining to the adoption of this ordinance have been provided to all property owners as follows:

(1) **Pre Ordinance Adoption Notice:** Notice of the proposed creation of the special assessment area the District, the assessment and this ordinance in its proposed format and date and time of the public meeting set to pass this ordinance were (i) posted in a newspaper of general circulation once a week for four consecutive weeks with the last notice being no more than 20 but at least 5 days before the deadline for filing adequate protests by landowners; and (ii) posted on the Utah Public Notice website for four (4) consecutive weeks continuously, prior to the deadline for filing adequate protests by landowners; and (iii) written notice of the assessment was mailed to each property owner in the District, within ten (10) days after the first publication or posting of notice as outlined in Section 11-42-401 UCA.

(2) **Content of Notice:** All notices referenced above included the following: (i) designated District boundaries; (ii) descriptions of the anticipated economic

promotion activities that the assessment would be funding and a proposed breakdown of costs associated with those activities; (iii) anticipated physical improvements to the subject properties, if any; (iv) a statement of the government's role in financing the anticipated economic promotion activities and/or property improvements and the proportion of costs to be paid by the government toward the proposed activities; (v) the method for how the special assessment was determined and how the assessment was levied; (vi) the estimated costs of the proposed activities; (vii) a statement that the government proposes to use the assessment funds to pay for the proposed activities according to the direct or indirect benefit to the property; (viii) a description of the nature of the improvements/activities and the location where those activities will take place; (ix) a statement of the time and location for filing protests against special improvement designation, and the method by which the government used to determine the number of protests required to defeat formation of the special assessment area; (x) a statement of the date, time and place of public hearing for properly filed protests; (xi) a description of how and when the government will adjust the assessment to reflect costs of promotional activities or operation and maintenance costs; (xii) a statement of the maximum number of years over which the assessment will be levied.

SECTION 10. 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 chapter.

SECTION 11. Effective Date: This ordinance shall become effective on June 26, 2012.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City,
Utah this 26th day of June, 2012.

Neil Garner
CHAIR

ATTEST:

Lee Ann Peterson
CITY RECORDER - Acting



TRANSMITTED TO THE MAYOR ON: 06/27/2012

MAYOR'S ACTION: Approved Vetoed

[Signature]
MAYOR

ATTEST:

Lee Ann Peterson
CITY RECORDER - Acting



POSTING DATE: 06/29/2012

EFFECTIVE DATE: 06/26/2012

APPROVED AS TO FORM: *BB* 6/21/12
Legal Date