SALT LAKE CITY COUNCIL MEMORANDUM

DATE: March 3, 2006

TO: City Council Members

FROM: Jan Aramaki

SUBJECT: Annual Assessment for Special Lighting District No. 3

CC: Cindy Gust-Jenson, Rocky Fluhart, Sam Guevara, Rick Graham, Dan

Mulé, Chris Bramhall, Tim Harpst, Michael Barry, Garth Limburg, Karen

Carruthers, and Gary Mumford

FILE LOCATIONS: Public Services/Special Lighting District L03/SID

REQUESTED ACTION:

The Administration requests that the City Council adopt an ordinance to approve the annual assessment on the properties incorporated within Lighting District No. 3. This action will renew the annual assessment levied upon each parcel of property described in the assessment list for the purpose of paying the costs for operating, maintaining, patrolling and furnishing of electrical energy.

The Office of the City Engineer has determined that the total estimated annual costs for street lights in Lighting District No. 3 will be \$183,330. The City's portion is \$45,834 leaving an assessment of \$137,496 upon the 652 property owners in the lighting district. The Administration has provided the City Council a map illustrating the extensions within the district and a spreadsheet showing the costs and the number of properties within each extension. Assessments shall be payable on April 28, 2006.

The Administration reported that there is a provision for maintenance and power increases within the calculated original formula Notice of Intention back in 1996; therefore a public hearing is not required.

Within 15 days from the effective date, a property owner assessed within the District has an option to file a written appeal with the City Engineering. The City shall convene a Board of Equalization and Review to consider the appeal, and the City shall report to the property owner regarding the Board of Equalization and Review's determination within five days.

BACKGROUND:

Salt Lake City currently provides four lighting program options for City lighting:

1. Traffic Safety Lighting is the standard base level of lighting provided on local streets for pedestrian and traffic safety at intersections as well as mid-block lighting (approximate spacing of 300 feet) at property owners' option. Mid-block lighting is

an option as long as a majority of the property owners within 150 feet of the light location request are in support and a light is lacking within the 300 foot spacing. Lights typically consist of either standard corbra head lighting fixtures on wooden poles or a decorative light and pole with underground wiring. 100 percent of lighting costs (purchase cost, installation, maintenance, and operation cost) are paid by the City out of the General Fund.

- 2. Continuous street lighting along collector and arterial streets (that handle higher levels of traffic volume, speed limits, and pedestrians) receive a brighter level of lighting and more uniform dispersion of lighting which consists of 6-8 lights per block face. Lights typically consist of either cobra head lights on wooden poles or decorative fixtures and poles 100 percent of lighting costs (purchase cost, installation, maintenance, and operation cost) are paid by the City out of the General Fund. However, when new developments fronting on major streets need new or replacement continuous lighting, they are required to cover the costs.
- 3. Private lighting has provided residential neighborhoods for the last eight year the option to purchase and install privately owned, decorative lights in the park strip public right of way. There are 1,900 property owners who have lights wired directly to the electric service of their homes. Each resident who owns a light is responsible to maintain and operate the light and is required to sign a revocable permit recorded with the property. Neighborhood groups have the option to identify the style of light pole and fixture they desire.

Individual property owners pay for the costs to purchase, install, maintain, and operate the lights; however, the residents have the option to apply and participate in the City's Matching Grant Program which pays up to 50 percent of the capital cost to purchase and install the poles, lights, and underground wiring.

4. When property owners within a specific neighborhood desire special or more lighting than the City's standard level of lighting and are willing to be assessed for the additional costs of the lighting, they may petition the City for the creation of a special assessment street lighting district. Creating this kind of a district is a legal process whereby property owners can arrange for funding of a public improvement that will benefit their properties. Special assessment districts are formed by ordinance upon agreement of a majority of the area property owners.

Street lighting districts require the abutting property owners to pay 100% of the capital costs of the lighting and 75% of the ongoing operating and maintenance cost of the lights. The City pays the remaining 25% as the equivalent of lighting that would be provided by the City. The property owners' costs are levied and billed annually in the form of special assessments.

There are 50 existing street lighting special improvement districts (extensions). The City has combined the individual districts into three super districts to simplify the annual assessment process. These extensions were combined based on assessment due dates, not on geographical location. On an annual basis, each district is renewed by assessment ordinance.

A. LOUIS ZUNGUZE DIRECTOR

<u>SALT'LAKE; GHTY CORPORATION</u>

DEPT. OF COMMUNITY DEVELOPMENT OFFICE OF THE DIRECTOR

ROSS C. "ROCKY" ANDERSON

MAYDR

DATE: February 28, 2006

BRENT B. WILDE DEPUTY DIRECTOR

COUNCIL TRANSMITTA

TO:

Rocky Fluhart, Chief Administrative Officer

FROM:

Louis Zunguze, Community Development Director \

RE:

An ordinance authorizing the Mayor to approve the annual assessment ordinance

for Special Lighting District LO3

STAFF CONTACT:

Tim Harpst, Transportation Director, at 535-6630 or

tim.harpst@slcgov.com

Michael Barry, Transportation Engineer, at 535-7147 or

michael.barry@slcgov.com

DOCUMENT TYPE:

Ordinance

BUDGET IMPACT:

None. This is included in the City's non-departmental operating

budget.

DISCUSSION:

Issue Origin: This is a request authorizing the Mayor to approve the 2006 Assessment Ordinance for Special Lighting District LO3. This annual ordinance sets the rate for this District. The Ordinance is included as Attachment 1. The Calendar of Events for the assessment is provided in Attachment 2.

Analysis: The annual operating, maintenance, and electrical energy costs for the District is estimated at \$183,330.00. The City pays 25% of the annual expenses (\$45,834.00) and the residents in the District pay the remaining 75% (\$137,496.00). The City's portion is included in the City's non-departmental operating budget.

The proposed Assessment Ordinance LO3 authorizes the Mayor to approve the annual assessment for the Special Lighting District LO3 to be levied on each parcel of property in the lighting district for the purpose of paying the operating, maintenance, and electrical energy costs of the District. There are 652 property owners at various locations throughout the City who belong to this lighting district. The costs and the number of properties within each extension are shown in Attachment 3. A map of the extensions within the district is shown in Attachment 4.

Master Plan Considerations: This ordinance is consistent with the City's Street Light Master Plan and Policy.

PUBLIC PROCESS:

The City Council is required to adopt the attached ordinance in order to put into effect the annual assessment. Section 9 (page 5) of the ordinance describes the process for filing an appeal to the assessment. The appeal shall be submitted in writing to the City Engineer within 15 days from the Effective Date. Upon receipt of the appeal, the City shall convene a Board of Equalization and Review to consider the appeal and, where appropriate, make adjustments to the assessment.

RELEVANT ORDINANCES:

Attached

Attachment 1
Assessment Ordinance for Street Lighting
Special Improvement District LO3

March 7, 2006

A regular meeting of the City Council of Salt Lake City, Salt Lake County, Utah, was held on Tuesday, the 7th day of March, 2006, at the hour of 7:00 p.m. at the offices of the City Council at 451 South State Street, Salt Lake City, Utah, at which meeting there were present and answering to roll call the following members who constituted a quorum:

David L. Buhler

Van Blair Turner

Søren Dahl Simonsen

Nancy Saxton

K. Eric Jergensen

Carlton Christensen

Jill Remington-Love

Chair

Vice Chair

Councilmember

Councilmember

Councilmember

Councilmember

Also present:

Ross C. Anderson Mayor
Edwin P. Rutan, II City Attorney

Deputy City Recorder

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this resolution had been discussed, the Deputy City Recorder presented to the City Council a Certificate of Compliance With Open Meeting Law with respect to this 7thday of March, 2006, meeting, a copy of which is attached hereto as Exhibit A.

Thereupon the following proceedings, among others, were duly had and taken:

It was noted that Salt Lake City, Utah Lighting District No. 3, now known as L03 (the "District L03") was duly created pursuant to notice and public hearing on January 7, 1997. The District was created with notice to all property owners within the District that assessments were to be paid annually when assessed. Thereafter, in 1997 the City Council adopted an assessment ordinance (the "Original Assessment Ordinance"), after which the District was modified by an addition of an extension which was previously part of another special improvement district. In 1999, 2000, 2001, 2002, 2003, 2004 and 2005 the City Council adopted assessment ordinances levying assessments with respect to the District.

the Original Assess Assessment Ordina pursuant to motion	sment Ordinance, t nce") was then in a duly made by C	troduced in writing, councilmember d by the following vo	nent ordinand was fully d and	te (the "2006 discussed, and
AYE:		u o, v		
NAY:				
ABSENT:				

The 2006 Assessment Ordinance was then signed by the Chair, presented to and approved by the Mayor and recorded by the Deputy City Recorder in the official records of Salt Lake City, Utah. The 2006 Assessment Ordinance is as follows:

ORDINANCE NO. __ of 2006

AN ORDINANCE (THE "2006 ASSESSMENT ORDINANCE") APPROVING THE ASSESSMENT LIST AND LEVYING AN ANNUAL ASSESSMENT UPON PROPERTY IN SALT LAKE CITY, UTAH LIGHTING DISTRICT NO. 3, NOW KNOWN AS L03 (THE "DISTRICT L03"); ESTABLISHING THE EFFECTIVE DATE OF THE 2006 ASSESSMENT ORDINANCE; PROVIDING FOR A PROCEDURE TO CONTEST AN ASSESSMENT; AND RELATED MATTERS.

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

- Section 1. <u>Determination of Costs</u>. All costs and expenses for providing street lighting within the District and the reasonable cost of any work to be done have been determined.
- Section 2. Approval of Assessment List; Findings. The Council confirms and adopts the District L03 assessment list, a copy of which is attached hereto as Exhibit B and incorporated herein by reference (the "Assessment List"). The Assessment List has been adjusted to comport with the previous year's experience for the District and it includes estimated operation and maintenance expenses for the coming year. The Council has determined that the Assessment List is just and equitable; that each piece of property to be assessed within the District 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 such improvements or services.
- Section 3. <u>Levy of Assessments</u>. The Council hereby levies an assessment 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.

The assessments hereby levied are for the purpose of paying the costs of providing for the operation, maintenance and patrolling of incandescent, fluorescent, metal halide and sodium vapor lamps and the furnishing of electrical energy. It is hereby determined and established that the property being assessed will be specifically benefited to the full amount of the assessment hereby levied to cover the cost of operating, maintaining, patrolling and furnishing of electrical energy. The property benefited is all within the boundaries of the District. Unless future modifications revise the purposes and plans of the District, future assessments will continue to be levied annually based upon applicable rates established by the energy contract with the City. Future non-energy costs of operation and maintenance relating to the providing of lighting benefits will also be a factor in determining future rates. The City Treasurer is hereby authorized and directed to notify property owners of this assessment and to collect assessments in accordance with the provisions of the 2006 Assessment Ordinance for the purposes herein provided.

Section 4. <u>Cost of Services Improvements; Amount of Total Assessments.</u> As determined by the office of the City Engineer, the total actual and estimated costs of all services and improvements for this fiscal year of the District is \$183,330.00, of which the City's portion is approximately \$45,834.00. The remainder of \$137,496.00 is to be paid from assessments levied upon property within the District as set forth in the Assessment List.

Section 5. Method, Rate, and Payment of Assessment. The total assessment for the District is levied in accordance with the method set out in the Notice of Intention pertaining to the District as adopted by the City Council on December 3, 1996. The applicable rate for each property was determined based on the costs of street lighting services, together with other related factors, the totals of which are set out in the preceding Section.

Assessments shall be payable on April 28, 2006 (the "Due Date"). Interest on assessments shall accrue only after passage of the Due Date set out in the Special Assessment Notice to be mailed by the Treasurer to property owners. The rate of interest accruing on any delinquent assessment shall be the rate allowed by Utah statute (the "Delinquent Rate"). The whole or any part of the assessment may be paid without interest on or prior to the Due Date. Future annual assessments may include adjustments to reflect changes in operation and maintenance costs and any balances or deficits resulting from the previous year's operations.

Section 6. <u>Default in Payment</u>. The assessment installment shall be delinquent if it remains unpaid after the Due Date. Any delinquency shall constitute a default of the payment of the assessment. If a default occurs in the payment of any installment when due, the City may file for recording a notice (the "Notice of Delinquency") with the Salt Lake County Recorder. The resulting recording fees for both the filing and the release shall be added to the assessment together with accrued interest due and owing. In addition, costs of collection as determined by the City Treasurer or required by law shall be charged and paid on all delinquent amounts.

If the delinquency continues after the filing of the Notice of Delinquency, the City Treasurer may determine that additional enforcement action may be appropriate. Prior to commencement of such enforcement action the City shall give an additional notice (the "Notice of Default"), in writing, of the default to the owner of the property in default. Notice of Default 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 the City. The Notice of Default may provide for a period of thirty (30) days in which the owner shall pay the assessment balance then due and owing together with accrued interest at the Delinquent Rate plus recording costs and other costs as determined by the City Treasurer. The Notice of Default may also declare that after the thirty (30) day period the City may bring suit for the total amount due plus costs of the enforcement action remedy, or the City may elect to commence foreclosure proceedings in the manner provided for actions to foreclose mortgage liens or trust deeds. In the event the City elects to foreclose using trust deed procedures, a trustee shall be designated by the City to serve as trust deed trustee for

purposes of the enforcement proceedings. 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 these amounts. The City shall be permitted to bid at the sale.

The election by the City to use or not to use a Notice of Delinquency and a Notice of Default shall have no effect on the perfecting of the lien resulting from a delinquency in the payment of any assessment after publication of the applicable assessment ordinance. 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 method or means of collection or enforcement shall not deprive the City of the use of any other method 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 judgment or, in the case of foreclosure action, the date of the foreclosure sale.

Section 7. 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 assessment installments, the property owner pays the full amount of the unpaid assessment balance with interest at the Delinquent Rate, plus all approved or required costs, the owner will have the right to make payment in full and receive a release of the assessment lien.

Section 8. Lien of Assessment. An assessment levied by the 2006 Assessment Ordinance or any unpaid portion of an earlier assessment, any interest accruing and the costs of recording and collection shall constitute a lien against the property upon which the assessment is levied as of April 13, 2006, the effective date of the 2006 Assessment Ordinance (the "Effective Date"), or as of the effective date of any earlier applicable assessment ordinance. Unless the assessment becomes delinquent, no notice of lien may be recorded and no release of lien will be recorded at the time of payment. When a delinquency occurs, a notice of lien setting out the assessment balance due may be incorporated into a Notice of Delinquency which will be recorded. The assessment lien based on the 2006 Assessment Ordinance, or on an earlier assessment ordinance, if the delinquency predates the effective date of the 2006 Assessment Ordinance, 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 a tax deed, an assignment of interest by the governing entity or a sheriff's certificate of sale or deed.

Section 9. <u>Appeal of Assessment</u>. An owner of property assessed within the District may, within fifteen (15) days from the Effective Date, file a written appeal with the City Engineer contesting the equity or justice of his/her assessment. Upon receipt of a written appeal, the City shall convene a Board of Equalization and Review to consider the appeal and, where appropriate, make adjustments to said assessment, provided however, that no adjustment may be made which would result in an increase in said assessment. The City shall report to the property owner the determination of the Board of

Equalization and Review within five (5) days after its recommendation is made. If an adjustment is recommended, the City Treasurer shall note said adjustment on the Assessment List attached hereto. If no adjustment is made, the property owner may take such additional legal action as provided in Section 10.

Section 10. <u>Contestability</u>. 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 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 the 2006 Assessment Ordinance.

Such action must be commenced and summons must be served on the City not later than 30 days after the Due Date of the 2006 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 30-day period provided in this section, the assessments levied in the District 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 in any other manner attacking or questioning the legality of the assessments may be instituted in this state, and no court shall have authority to inquire into these matters.

- Section 11. <u>Notice to Property Owners</u>. The City Treasurer is hereby authorized and directed to give notice of assessment by mail to the property owners in the District. 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 Deputy City Recorder.
- Section 12. <u>All Necessary Action Approved</u>. The officials of the City are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of the 2006 Assessment Ordinance.
- Section 13. <u>Repeal of Conflicting Provisions</u>. All ordinances or parts thereof in conflict with the 2006 Assessment Ordinance are hereby repealed.
- Section 14. <u>Publication of Ordinances</u>. Immediately after its adoption, the 2006 Assessment Ordinance shall be signed by the Mayor and City Recorder and shall be recorded in the ordinance book kept for that purpose. The 2006 Assessment Ordinance shall be published once in the <u>Deseret Morning News</u>, a newspaper published and having general circulation in the City, and shall take effect immediately upon its Effective Date.

PA March, 200		APPROVED	by the City	Council	of the	City, this	7th day	of
(SEAL)								
			By:		Cha	ir		
ATTEST:								
Ву:	Deputy Cit	y Recorder						

PRESENTATION TO THE MAYOR

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STATE OF UTAH)
	: SS.
COUNTY OF SALT LAKE)
Recorder of Salt Lake City, Salt Council of Salt Lake City, Sa	the duly appointed, qualified and acting Deputy City Salt Lake County, Utah, do hereby certify that the above and correct copy of the record of proceedings had by the City alt Lake County, Utah, at its meeting held on the day of same relates to or concerns Salt Lake City, Utah Lighting appears of record in my office.
	at the 2006 Assessment Ordinance levying the special me in the official records of Salt Lake City on this 7th day
IN WITNESS WHER seal of Salt Lake City this 7th	REOF, I have hereunto set my hand and affixed the corporate h day of March, 2006.
(SEAL)	
	Ву:
	Deputy City Recorder

STATE OF UTAH)	CERTIFICATE OF MAILING	ڒ
	: ss.	NOTICE OF ASSESSMENT	
COUNTY OF SALT LAKE)		
Lake City, Salt Lake County caused to be mailed a Noti	, Utah, do hereby certice of Assessment to e	fied and acting City Treasurer ify that on the day of each property owner in Salt Lak fail, postage prepaid, at the last	_, 2006, se City,
	•	set my hand and affixed the co day of, 2006	-
	By:		
	_ ,	City Treasurer	

PROOF OF PUBLICATION

Attached to this page is the Proof of Publication, indicating by the affidavit of the publisher that the said 2006 Assessment Ordinance levying the special assessments which was contained in the 2006 Assessment Ordinance adopted by the City Council on the 7th day of March, 2006, was published one time in the <u>Deseret Morning News</u>.

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I,, the undersign	ed Deputy City Recorder of Salt Lake City,
Salt Lake County, Utah (the "City"), do her	
City in my official possession, and upon	
accordance with the requirements of Section	n 52-4-6(2), Utah Code Annotated 453, as
amended, I gave not less than twenty-four (2	* * *
time and place of the 7th day of March, 2006,	, .
be posted at the City's offices at 451 the day of March, 2006, at least to	n the form attached hereto as <u>Schedule 1</u> , to South State Street, Salt Lake City, Utah, on wenty-four (24) hours prior to the convening ntinuously remained so posted and available ion of the meeting; and
Schedule 1, to be delivered to the 1	such Notice, in the form attached hereto as Desert Morning News on the day of (24) hours prior to the convening of the
IN WITNESS WHEREOF, I have he 7th day of March, 2006.	reunto subscribed my official signature this
(SEAL)	
]	Зу:
	Deputy City Recorder

SCHEDULE A

NOTICE OF MEETING

EXHIBIT B

ASSESSMENT LIST

(Available for review at the offices of the City Recorder and the City Engineer)

Attachment 2 Calendar of events for Street Lighting Special Improvement District LO3

LO3

Calendar for Street Lighting Special Improvement Districts

<u>Date</u>	Event
December 30, 2005	Preliminary tax rolls prepared.
January 2, 2006	Assessment costs to City Treasurer for approval.
January 9, 2006	Review of Assessment Ordinance from Ballard Spahr to Treasurer and Engineering.
January 30, 2006	Assessment and Council letter sent to Transportation Department for approval.
February 13, 2006	Assessment Ordinance and council letter returned to engineering for copies.
February 27, 2006	District transferred from set-up to billing.
March 7, 2006	Assessment Ordinance on City Council Agenda.
March 14, 2006	Assessment Ordinance approved by City Council, and to Recorder's Office for publication.
March 21, 2006	Assessment Ordinance Published.
March 31, 2006	Billings mailed to property owners.

Attachment 3
Costs for Street Lighting
Special Improvement District LO3

YR 2	006						
	•	reet Lighting vement Dis		#3			Properties
EXTENSION	ABU	TTERS	CITY	·	тот	AL	
5-06	\$	2,864.00	\$	955.00	\$	3,819.00	21
9-06	\$	12,000.00	\$	4,000.00	\$	16,000.00	 22
10-06	\$	8,823.00	\$	2,941.00	\$	11,764.00	26
11-06	\$	5,256.00	\$	1,752.00	\$	7,008.00	11
12-06	\$	6,781.00	\$	2,260.00	\$	9,041.00	67
19-06	\$	6,404.00	\$	2,135.00	\$	8,539.00	16
20-06	\$	2,522.00	\$	841.00	\$	3,363.00	 51
22-06	\$	3,587.00	\$	1,196.00	\$	4,783.00	49
23-06	\$	12,375.00	\$	4,125.00	\$	16,500.00	115
24-06	\$	4,125.00	\$	1,375.00	\$	5,500.00	74
38-06	\$	3,664.00	\$	1,221.00	\$	4,885.00	36
40-06	\$	3,227.00	\$	1,076.00	\$	4,303.00	19
42-06	\$	7,223.00	\$	2,408.00	\$	9,631.00	4
47-06	\$	9,719.00	\$	3,240.00	\$	12,959.00	8
50-06	\$	15,750.00	\$	5,250.00	\$	21,000.00	22
56-06	\$	2,400.00	\$	800.00	\$	3,200.00	44
67-06	\$	12,000.00	\$	4,000.00	\$	16,000.00	48
69-06	\$	10,197.00	\$	3,399.00	\$	13,596.00	6
70-06	\$	4,500.00	\$	1,500.00	\$	6,000.00	12
80-06	\$	4,079.00	\$	1,360.00	\$	5,439.00	1
TOTAL COSTS	\$ \$	137,496.00	\$	45,834.00	\$	183,330.00	652

Attachment 4
Map for Street Lighting
Special Improvement District LO3



Parcel Map 2006 Annual Assessment Ordinance for Special Lighting District L03



SALT LAKE CITY CORPORATION DIVISION OF TRANSPORTATION 349 SOUTH 200 EAST, SUITE 450

DRAWN BY: K. BELL 2/16/2006

Salt Lake City, Utah

