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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** May 30, 2007

**SUBJECT:** Ordinance confirming the modified and equalized assessment rolls and levying an assessment against certain properties in the Salt Lake City, Utah Strongs Court (#102109) and Fenway Avenue (#102129) Reconstruction Special Improvement District for costs of:

Strongs Court SID #102109: reconstruction of the roadway, including installation of concrete pavement, gutters, sidewalk, water facilities, driveway approaches, and street lighting; and

Fenway Ave. SID #102129: reconstruction of the roadway, including installation of concrete pavement, Gutters, sidewalk, water facilities, and driveway approaches.

**AFFECTED COUNCIL DISTRICTS:** District Four

**STAFF REPORT BY:** Jan Aramaki, Policy Analyst/Constituent Liaison

**ADMINISTRATIVE DEPT. AND CONTACT PERSON:** Department of Public Services, Rick Graham & John Naser

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## POTENTIAL MOTION:

If the Council desires to adopt the assessment ordinance, the following motion would be appropriate:

["I move that the Council"] Adopt an ordinance confirming the modified and equalized assessment rolls and levying an assessment against certain properties in the Salt Lake City, Utah Strongs Court (#102109) and Fenway Avenue (#102129) reconstruction Special Improvement District for the purpose of paying the costs of the reconstruct roadways, including concrete pavement, gutters, sidewalks, water facilities, driveway approaches, street lighting, and related improvements and all other miscellaneous work necessary to complete the improvements in a proper workmanlike manner (collectively, the "Improvements"); establishing the effective date of this ordinance; and related matter.

## NEW INFORMATION:

The next step for the City Council is to adopt the attached ordinance confirming the modified and equalized assessment rolls and levying an assessment against certain properties within the Salt Lake City Strongs Court (#102109) and Fenway Avenue (#102129) reconstruction Special Improvement

District for the purpose of paying the costs of the reconstruct roadways, including concrete pavement, gutters, sidewalks, water facilities, driveway approaches, street lighting, and related improvements.

Breakdown of costs for the improvements are as follows:

City Portion	\$235,405.95
Property Owners	\$192,691.05
Total Estimated Cost	\$428,097.00

On page 4, Section 6a states: "The whole or any part of the assessments for the District may be paid without interest within twenty-seven (27) days after this Ordinance becomes effective." Please make note that according to the Administration, new State statute stipulates twenty-five (25) days rather than twenty-seven (27) days. This minor correction will be prepared for the final ordinance execution. Any part of the assessment not paid within the twenty five day period can be payable over a period of ten years from the effective date of the ordinance in ten substantially equal annual principal installments," plus interest accrual at the rate of 4.6% per annum until and unless special assessment bonds are issued for the District.

On March 6, 2007, the City Council adopted a resolution to appoint a Board of Equalization and Review and set the dates for the Board of Equalization. The Board heard and considered objections to and made corrections of any proposed assessments which the Board deemed unequal or unjust. This was an opportunity for property owners to discuss with the Board any actual costs that are being proposed.

The Board of Equalization met for three days on April 10, 11, and 12, 2007. The Board of Equalization and Review consisted of the following City officials: Max Peterson, City Engineer; Chris Meeker, City Recorder; and Melanie Reif, Senior City Attorney. Those who assisted the Board consisted of: John Coyle, Project Manager; Russ Nunley, Project Engineer; Stephanie Toombs, Project Engineer; Marina Scott, Deputy Treasurer; Garth Limburg, Special Assessment Coordinator; Karen Carruthers, City Engineering; and Susan Finlayson, City Engineering. The following is a summary of the concerns expressed by property owners regarding the proposed SID assessments along with responses and recommendations from the Board of Equalization.

April 10, 2007		
Property Owner	Concerns	Board's Response and Recommendation (Refer to Administration's transmittal for more details)
Arnold & Geraldine Seiler 1204 E Fenway Ave 16-05-482-001-0000	Due to corner location of their property and their neighbor's property across the street, they did not receive a new water service rather their properties are serviced from 1200 East - request to have assessments adjusted for street construction costs only.	<b>Recommendation:</b> <b>Assessment reduced by \$425.98 for water service adjustment</b>

Upcoming action to be scheduled before the City Council will include:

- Resolution authorizing the issuance and providing the sale of bonds.

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Information below was previously provided to the City Council and is provided again for Council's reference.

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The City Council held a protest hearing on April 11, 2006. In order for the District not to be created, the necessary number of protests must represent 50 percent or more of the total lots to be assessed. No protests were received.

At the bid opening held on April 12, 2006, only one bid was submitted. The bid was 26 percent higher than the Engineer's original estimate for the project which will increase Strongs Court property owners' assessment from \$125.67 to \$158.77 per lineal foot and will increase Fenway Avenue property owners' assessment from \$116.78 to \$138.55 per lineal foot. The total breakdown for additional property assessment costs are as follows:

Property Owners' Additional Cost for Strongs Court (\$15,000 for reconstruction/\$10,000 lighting)	\$25,000
Property Owners' Additional Cost for Fenway Avenue	<u>\$17,000</u>
Total Additional Property Owners' Assessment Cost	\$42,000

On April 27, 2006, the Administration held a meeting with property owners who expressed their support in proceeding with the project after being informed of their assessment increase.

On May 16, 2006, the City Council received a briefing on Budget Amendment #5 for Fiscal Year 2005-06 at which time the Council was informed that due to increased costs for street lighting, concrete pavement, excavation and road base for Strongs Court and Fenway Avenue, the Administration made a request for additional funds from CIP fund balance as follows:

City's Portion Additional Cost for Strongs Court	\$17,000
City's Portion Additional Cost for Fenway Avenue	<u>\$15,000</u>
Total City's Portion Additional Cost	\$32,000

In addition to the creation of the Special Improvement District for Strongs Court and Fenway Avenue, Public Services pursued steps administratively for the private streets to become dedicated public ways.

According to the Administration, currently Strongs Court (845 East between 340-400 South streets) and Fenway Avenue (635 South between 1200-1240 East streets) are private streets. Property owners made a request to the City to have both streets reconstructed to City standards as dedicated City streets, to include new utilities and pavement. As the first step in creating the process to establish the Special Improvement Districts (SIDs), Strong Courts SID No. 102109 and Fenway Avenue SID No. 102129, the Administration requested that the Council adopt a resolution declaring the Notice of Intention that includes the identified two streets. The Administration stated that

proposed "improvements shall be constructed according to plans, profiles and specifications on file in the Office of the City Engineer" and are as follows:

Strong's Court #102109: complete reconstruction of the roadway to include concrete pavement, gutters, sidewalk, water facilities, driveway approaches, and street lighting.

Fenway Avenue #102129: complete reconstruction of the roadway to include concrete pavement, gutters, sidewalk, water facilities, and driveway approaches.

Approximately 12-14 properties have been identified along both sides of each street. Projected construction schedule indicated work to begin around early July 2006 with an anticipated completion date of October 2006.

Funding sources are allocated from the Salt Lake City Capital Improvement Project (CIP) budget, Public Utilities Department water and storm drain budgets, and property owner assessments through the SID broken down as follows:

Strong's Court (SID #102109)

Property Owners (rate \$125.67/LF):	\$ 82,940
Salt Lake City Funds	\$ 84,348
Public Utilities Department	<u>\$ 28,120</u>
Total Estimated Costs	\$195,408

Fenway Avenue (SID #102129)

Property Owners (rate \$116.78/LF):	\$ 81,161
Salt Lake City Funds	\$ 82,727
Public Utilities Department	<u>\$ 27,788</u>
Total Estimated Costs	\$191,676

For a combined total of:

Property Owner's Assessed Portion of Costs	\$164,101
City's Portion of Costs	<u>\$222,983</u>
Project Estimated Total	\$387,084

The estimated property owners' costs include: "construction cost to complete the item of work, engineering expenses, allowance for the interest on interim warrants, if any, issued to finance construction of the improvements and ten percent for bonding, administrative costs, a possible underwriter's discount on the sale of bonds, legal and other costs in connection with the issuance of assessment bonds." Assessments may be paid by property owners in not more than ten (10) equal annual installments with interest on the unpaid balance until due and paid.

An informal public meeting was scheduled for April 3, 2006 for the Administration to review the proposed SID with interested abutting property owners. The meeting location was the Salt Lake City Engineering Office's First Floor Conference Room at 349 South 200 East from 4:00 p.m. to 6:00 p.m.

Following Council's approval of the attached resolution, a letter was sent to property owners living within the boundary areas of the proposed SID along with "Answers to the Most Commonly Asked Questions" sheet. Property owners were notified that the City is considering a proposed street reconstruction project that includes their properties. The property owners were informed that the improvement costs will be shared 50/50 by the City and the property owner.

It is stated in the Resolution that abutting property owners within the SID area to be improved who have built or installed “nonconforming improvements such as lawns, shrubs, hedges, sprinkling systems, rock gardens, driveways, curb, gutters, culverts, walks, fences, etc.” must be removed at the property owner’s expense prior to construction improvements beginning. The contractor will remove and dispose of improvements if they are not removed by the property owners at the owner’s expense.

If a property owner does not wish to participate in the proposed SID or is on a limited income, there are three options:

- Property owners had the opportunity to file a protest at or before 5:00 p.m. on the 11th day of April 2006 to the City Recorder’s Office or appear at the protest hearing on April 11<sup>th</sup> at 7:00 p.m.; however, in order for the District not to be created, the number of protests must represent 50 percent or more of the total lineal front footage within the District.
- If an assessed property owner within the District has a “combined family income at or below the very low income level guidelines established by the Department of Housing and Urban Development in its ‘Income Limits for Housing and Community Developments, Section 8 Program for Salt Lake City and Ogden, Utah SMSA,’” the property owner may be eligible for low income deferment. The property must be residential and owner occupied to be eligible for low income deferment, and an owner must submit an application with the City. The deferment agreements are reviewed on a semi-annual basis to verify property ownership and the current economic status of the property owner.


## CHRONOLOGY:


- **March 7, 2006:** the City Council adopted a Notice of Intention to create a Special Improvement District to construct improvements within the City consisting of the reconstruction of roadways, including installation of concrete pavement, gutters, sidewalk, water facilities, driveway approaches, street lighting, and all other miscellaneous work necessary to complete the improvements in a proper and workmanlike manner; to create the Salt Lake City Strongs Court (#102109) and Fenway Avenue (#102129) reconstruction Special Improvement District.
- **April 11, 2006:** A protest hearing was held.
- **April 12, 2006:** Bid opening held -- only one bid was submitted.
- **June 6, 2006:** The City Council adopted resolutions authorizing the City officials to proceed with the construction of the improvements and accepting bids and authorizing execution of a contract to the best bidder for construction work and materials to complete the improvements for the Strongs Court and Fenway Avenue SID.
- **March 6, 2007:** The City Council adopted a resolution to appoint a Board of Equalization and Review and set the dates for the Board to hear and consider objections and corrections to any proposed assessments.
- **April 10, 11, and 12, 2007:** Board of Equalization Review

CC: Cindy Gust-Jenson, Sam Guevara, Lyn Creswell, Rick Graham, Louis Zunguze, Gary Mumford, Dan Mulé, Tim Harpst, Max Peterson, Dan Noziska, Cindy Lou Rockwood, Diana Karrenberg, Gwen Springmeyer, Chris Bramhall, Susan Finlayson, Karen Carruthers, Blaine Carlton, Cindy Arnold, and Garth Limburg


MAY 29 2007

**COUNCIL TRANSMITTAL**

**TO:** Lyn Creswell  **DATE:** May 24, 2007  
Chief Administrative Officer

**FROM:** Rick Graham, Director 

**SUBJECT:** Assessment Ordinance for Strongs Court, (#102109) and Fenway Avenue  
(#102129) Reconstruction

**STAFF CONTACT:** John Naser, 535-6240 

**DOCUMENT TYPE:** Ordinance

**RECOMMENDATION:** That the Council adopts the Assessment Ordinance levying an assessment upon each property identified in the assessment list for the purpose of paying the costs to construct the improvements in Strongs Court (102109) and Fenway Avenue (102129) Reconstruction SID.

**BUDGET IMPACT:**

City Portion	\$235,405.95
Property Owners	192,691.05
Total Estimated Cost	\$428,097.00

**BACKGROUND/DISCUSSION:** The Strongs Court (#102109) and Fenway Avenue (#102129) Reconstruction Special Improvement District involves the total reconstruction of these streets with new water systems, storm drain systems and concrete pavement. Strongs Court also received new streetlights. The assessments to be levied are for the purpose of paying for the improvements necessary to complete the district. Assessments for the district may be paid without interest within thirty days after this ordinance becomes effective. Any part of the assessment not paid within the thirty-day period can be payable over a period of ten years from the effective date of the ordinance.

**PUBLIC PROCESS:** The Board of Equalization hearings were held on April 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> of 2007.

Salt Lake City, Utah

June 5, 2007

A regular meeting of the City Council of Salt Lake City, Salt Lake County, Utah, was held on Tuesday, the 5th day of June, 2007, 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

Van Blair Turner	Chair
Jill Remington Love	Vice Chair
Carlton Christensen	Councilmember
Søren Dahl Simonsen	Councilmember
Nancy Saxton	Councilmember
K. Eric Jergensen	Councilmember
David L. Buhler	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 ordinance had been discussed, the Deputy City Recorder presented to the City Council a Certificate of Compliance With Open Meeting Law with respect to this 5th day of June, 2007, meeting, a copy of which is attached hereto as Exhibit A.

The Board of Equalization and Review (the "Board") for "Salt Lake City, Utah Strong's Court (#102109) and Fenway Avenue (#102129) Reconstruction Special Improvement District" (the "District") presented to the City Council its report and stated that it had reviewed statements, comments and complaints on each property in the District as listed in the minutes of the hearings of the Board held on the 10th, 11th and 12th day of April, 2007.

The following Findings, Recommendations, and Decisions were then presented to the City Council by the Board:

## FINDINGS

It is the finding of the Board that each piece of property within the District will be directly or indirectly benefited in an amount not less than the assessment to be levied against said property. No piece of property listed in the adjusted assessment list will bear more than its proportionate share of the costs of such improvements.

## RECOMMENDATION AND DECISION

It is the decision of the Board that the proposed assessment list, as adjusted, is equitable and that the improvements being financed thereby constitute a benefit to the properties to be assessed. The assessment list is approved subject to the following modifications:

See Exhibit C

The Board respectfully recommends that the City Council approve and confirm the assessment list as adjusted and adopt an ordinance levying the assessment set out in the adjusted assessment list.

The City Recorder is hereby authorized and directed to mail a copy of the Board's final report to each property owner who objected at the Board hearings to the proposed assessment to be levied against the property owner's property at the property owner's mailing address.

Motion was then made by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_ that the City Council accept the Recommendation and Decision of the Board regarding the proposed assessments to be levied within the District. The motion carried unanimously.

The Deputy City Recorder then noted that the City Council is now convened in this meeting for the purpose, among other things, of adopting an Assessment Ordinance (the "Ordinance") for the District. The following Ordinance was then introduced in writing, was fully discussed, and pursuant to motion duly made by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_, was adopted by the following vote:

AYE:

NAY:

The 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 ordinance is as follows:



ORDINANCE NO. \_\_\_\_ of 2007

AN ORDINANCE CONFIRMING THE MODIFIED AND EQUALIZED ASSESSMENT ROLLS AND LEVYING AN ASSESSMENT AGAINST CERTAIN PROPERTIES IN THE SALT LAKE CITY, UTAH STRONGS COURT (#102109) AND FENWAY AVENUE (#102129) RECONSTRUCTION SPECIAL IMPROVEMENT DISTRICT" (THE "DISTRICT"), FOR THE PURPOSE OF PAYING THE COSTS OF THE RECONSTRUCT ROADWAYS, INCLUDING CONCRETE PAVEMENT, GUTTERS, SIDEWALKS, WATER FACILITIES, DRIVEWAY APPROACHES, STREET LIGHTING, AND RELATED IMPROVEMENTS AND ALL OTHER MISCELLANEOUS WORK NECESSARY TO COMPLETE THE IMPROVEMENTS IN A PROPER WORKMANLIKE MANNER (COLLECTIVELY, THE "IMPROVEMENTS"); ESTABLISHING THE EFFECTIVE DATE OF THIS ORDINANCE; AND RELATED MATTERS.

BE IT ORDAINED BY THE CITY COUNCIL OF SALT LAKE CITY, SALT LAKE COUNTY, UTAH, AS FOLLOWS:

Section 1. Determination of Costs. All costs and expenses for the making of the Improvements within the District, together with related costs, have been determined.

Section 2. Approval of Assessment List; Findings. The City Council (the "Council") of Salt Lake City, Utah (the "City"), hereby accepts and adopts the Findings and Recommendation of the Board of Equalization and Review. The Council confirms and adopts the equalized and adjusted assessment roll for the District, 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, as adjusted and equalized, 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 the Improvements.

Section 3. Levy of Assessments. 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.

The assessments hereby levied are for the purpose of paying the costs of constructing the Improvements in a proper and workmanlike manner.

The assessments are hereby levied and assessed upon each of the parcels of real property described in the Assessment List according to the extent that they are specially benefited by the Improvements acquired or constructed within the District. The assessments are levied upon the parcels of land in the District at equal and uniform rates.

Section 4. Cost of Improvements; Amount of Total Assessments. The total cost of the Improvements in the District is \$428,097.00 including allowable related expenses. Of this total cost, the City's portion is \$235,405.95. The City's portion for the District includes that part of the overhead costs for which an assessment cannot be levied, if any, and the cost of making the Improvements for the benefit of property against which an assessment may not be levied, if any. The amount to be assessed against property affected or benefited by the Improvements in the District is \$192,691.05. That amount does not exceed in the aggregate the sum of: (a) the total contract price or prices for the Improvements under contract duly let to the lowest and best responsible bidder therefor and a portion of the costs of engineering, designing, and inspection; (b) the reasonable cost of utility services, maintenance and operation, labor, materials, or equipment supplied by the City, if any; (c) the price of purchasing property, if any; (d) connection fees, if any; (e) the interest on any interim warrants issued against the District; and (f) overhead costs not to exceed fifteen percent (15%) of the sum of (a), (b), and (d).

Section 5. Method and Rate. The total assessment for the District is levied in accordance with the method set out in the Notice of Intention pertaining to the District. The applicable rate for each property was determined based on costs as set out in the preceding Section.

Section 6. Payment of Assessments.

(a) The whole or any part of the assessments for the District may be paid without interest within twenty-seven (27) days after this Ordinance becomes effective. Any part of the assessment not paid within such twenty-seven (27)-day period shall be payable over a period of ten (10) years from the effective date of this Ordinance in ten (10) substantially equal annual principal installments, plus interest accruing thereon. Interest on the unpaid balance of the assessment shall accrue at the rate of four and six-tenths percent (4.6%) per annum until and unless special assessment bonds (the "Bonds") are issued for the District. After issuance of the Bonds the interest rate on unpaid assessment balances (unless delinquent rates apply) shall be the same rate as the net effective interest rate of the Bonds anticipated to be issued by the City. The first assessment installment payment date shall be on or about November 1, 2007, and subsequent installment payments shall be due on each anniversary date of the first assessment installment payment date thereafter until paid in full. Interest shall accrue from the effective date of this Ordinance. Each assessment installment shall include one year's interest on the unpaid assessment amount.

(b) After the above-referenced twenty-seven (27)-day period, all unpaid installments of an assessment levied against any piece of property may be paid prior to the dates on which they become 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 on the Bonds issued in anticipation of the collection of the assessments, plus such additional amount as, in the opinion of the City Treasurer, is necessary to assure the availability of money to pay interest on the Bonds as interest becomes due and

payable plus any premiums that may be charged and become payable on redeemable Bonds that may be called in order to utilize the assessments paid in advance.

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, and (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 is applied to delinquent real property taxes for the year in which the assessment installment becomes delinquent (the "Delinquent Rate"). 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, shall 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 the City. 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 these 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 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 foreclosure sale.

Section 8. Remedy of Default. If prior to the final date that 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 all unpaid installments that are past due and delinquent with interest at the Delinquent Rate, plus all approved or required costs, the assessment of said owner shall be restored so that the owner will have the right to make the payments in installments as if the default had not occurred.

Section 9. Lien of Assessment. An assessment or any part or installment of it, any interest accruing, and the penalties and 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, shall be equal to and on a parity with the lien for general property taxes, and shall apply without interruption, change of priority, or alteration in any manner to any reduced payment obligations. The lien shall continue until the assessment, reduced payment obligations, 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, the issuance of a 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 void or set aside in whole or in part in consequence of any error or irregularity that 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 to set aside and declare unlawful this Ordinance.

Such action must be commenced and summons must be served on the City not later than 30 days after the effective date of this Ordinance. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint that 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:

(a) The Bonds issued or to be issued against the District and 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

(b) A suit to enjoin the issuance or payment of the Bonds, the levy, collection, or enforcement of the assessment, or to attack or question the legality of the Bonds or assessments may not be commenced in this state, and a court may not inquire into those 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 District. Said notice shall, among other things, state the amount of the assessment and the terms of 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 Ordinance.

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

Section 14. Publication of Ordinance. Immediately after its adoption, this Ordinance shall be signed by the Mayor and the City Recorder and shall be recorded in the ordinance book kept for that purpose. This Ordinance shall be published once in the Deseret Morning News, 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 Recorder is hereby authorized and directed to file a Notice of Assessment Interest with the Salt Lake County Recorder within five days after the 27-day prepayment period provided in Section 6(a). 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 Salt Lake City, Utah, this 5th day of June, 2007.

(SEAL)

By: \_\_\_\_\_  
Chair

ATTEST:

By: \_\_\_\_\_  
Deputy City Recorder

The City Treasurer was thereupon authorized to mail to the property owners in the District the foregoing notice of special assessment as hereinbefore provided.

After the transaction of other business not pertinent to the foregoing matter, the meeting was on motion duly made, seconded, and carried, adjourned.

(SEAL)

By: \_\_\_\_\_  
Chair

ATTEST:

By: \_\_\_\_\_  
Deputy City Recorder

PRESENTATION TO THE MAYOR

The foregoing ordinance was presented to the Mayor for his approval or disapproval on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_  
Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Ross C. Anderson  
Mayor



STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

I, Chris Meeker, the duly appointed and qualified Deputy City Recorder of Salt Lake City, Utah, do hereby certify that the above and foregoing is a full, true and correct copy of the record of proceedings had by the City Council of Salt Lake City, Utah, at its meeting held on the 5th day of June, 2007, insofar as the same relates to or concerns the Salt Lake City, Utah Strongs Court (#102109) and Fenway Avenue (#102129) Reconstruction Special Improvement District (the "District") as the same appears of record in my office.

I further certify that the Ordinance levying the special assessments was recorded by me in the official records of Salt Lake City on 5th day of June, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Salt Lake City this 5th day of June, 2007.

(SEAL)

By: \_\_\_\_\_  
Deputy City Recorder

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

AFFIDAVIT OF MAILING  
NOTICE OF ASSESSMENT

I, Daniel Mulé, the duly appointed and qualified City Treasurer of Salt Lake City, Salt Lake County, Utah, do hereby certify that on the \_\_\_\_ day of June, 2007, I caused to be mailed a Notice of Assessment to each property owner in the Salt Lake City, Utah Strongs Court (#102109) and Fenway Avenue (#102129) Reconstruction Special Improvement District (the "District") by United States Mail, postage prepaid, at the last known address of such owner.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Salt Lake City, Salt Lake County, Utah this \_\_\_\_ day of \_\_\_\_\_, 2007.

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 Ordinance levying the special assessments adopted by the City Council on 5th day of June, 2007, was published one time in the Deseret Morning News.

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, \_\_\_\_\_, the undersigned Deputy City Recorder of Salt Lake City, Salt Lake County, Utah (the "City"), do hereby certify, according to the records of the City in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time, and place of the 5th day of June, 2007, public meeting held by the City as follows:

(a) By causing a Notice, in the form attached hereto as Schedule A, to be posted at the City's offices at 451 South State Street, Salt Lake City, Utah, on the 1st day of June, 2007, at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto as Schedule A, to be delivered to the Deseret Morning News on the 1st day of June, 2007, at least twenty-four (24) hours prior to the convening of the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this 5th day of June, 2007.

(SEAL)

By: \_\_\_\_\_  
Deputy City Recorder

SCHEDULE A

NOTICE OF MEETING

EXHIBIT B

ASSESSMENT LIST

[Available for review at the offices of the  
City Recorder or City Engineer]

EXHIBIT C

MODIFICATIONS RECOMMENDED  
BY BOARD OF EQUALIZATION AND REVIEW

**REPORT OF THE BOARD OF EQUALIZATION  
SPECIAL IMPROVEMENT DISTRICT  
900 East 900 South Streetscape SID (106018);  
Strongs Court (102109) & Fenway Avenue (102129), Reconstruction SID**

The Board of Equalization Hearings for Special Improvement Districts Numbers 106018; 102109 and 102129 were held on April 10, 11, and 12, 2007 at 349 South 200 East in the first floor conference room; in conformance with statutes and ordinances governing special improvement districts. The Board was comprised of the following members:

Max Peterson,	City Engineer
Chris Meeker,	City Recorder
Melanie Reif,	Senior City Attorney

Assisting the Board were the following individuals:

John Coyle	Project Manager
Russ Nunley,	Project Engineer
Stephanie Toombs,	Project Engineer
Marina Scott,	Deputy Treasurer
Garth Limburg,	Special Assessment Coordinator
Karen Carruthers,	City Engineering
Susan Finlayson,	City Engineering

The following are issues raised by property owners concerning the Special Improvement District assessments and recommendations of the Board of Equalization.

**Tuesday, April 10, 2007**

**Arnold & Geraldine Seiler  
1204 East Fenway Avenue  
Salt Lake City, Utah 84102-3212  
16-05-482-001-0000**

**102129 Fenway Avenue SID**

Mr. & Mrs. Seiler were very pleased with the project and the great job done by Russ Nunley and John Coyle. Mr. Seiler also stated that the neighborhood is delighted with the project. Mr. Seiler stated that he had one question for both himself and his neighbor, Mr. & Mrs. Harrison, who lives across the street from his property: due to the corner location of their two homes, both property owners did not receive a new water service as their properties had water service off of 1200 East and he was wondering if their assessments could be adjusted for only the street construction costs. Mr. Seiler also wanted to share a story about the corner lot exemption as explained to him 30 years ago and he was wondering whether the Board could explain the corner lot exemption policies to him again.

**Response:**

Mr. Peterson stated that the Board will evaluate the issue of not participating in the water system cost and Mr. Seiler and Mr. Harrison would be notified in the next few weeks on whether or not an adjustment will be granted. Mr. Peterson also explained the corner lot exemption. Mr. Peterson further explained that Fenway was converted from a private street to a public street and, therefore, it had to be brought up to City standards. The work was done only on Fenway and the corner lot exemption would not apply since no work was done on 1200 East. The Seiler and Harrison corner lot properties did not

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receive new water services off Fenway; thus, the water service cost needs to be removed from the assessment. The water main assessment benefited all Fenway properties by the installation of a new fire hydrant and bringing the street up to City standards and making Fenway a City street.

**Recommendation of the Board:**

The Board recommends the assessment be revised as follows:

**Current Assessment**

2 - Concrete Roadway and Water Main	38.00 Ln. ft. @ \$ 134.30	<u>\$ 5,103.40</u>
Total		\$ 5,103.40

**Revised Assessment**

2 Concrete Roadway and Water Main	38.00 Ln. ft. @ \$ 134.30	\$ 5,103.40
2a Water Service Adjustment	38.00 Ln. ft. @ \$ - 11.21	<u>\$ - 425.98</u>
Total		\$ 4,677.42

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**Wednesday, April 11, 2007**

**No property owners attended this meeting.**

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**Thursday, April 12, 2007**

**Daniel & Darrell Fieldstad**  
951 East 900 South  
Salt Lake City, Utah 84105-1430  
16-08-180-039-0000

**106018 - 900 East 900 South Streetscape SID**

Mr. Daniel Fieldstad stated the property in question is a residential property, not retail, and therefore, he thinks his property assessment should be reduced. He submitted a letter and map of the area to the Board to show that his property is surrounded by businesses. Mr. Fieldstad further explained that his property consists of four dwellings, and both he and his brother each occupy a unit and the remaining two units are occupied by renters. Mr. Fieldstad applauded the Engineering and Construction personnel who worked on the project. He is really happy with the way this project was handled from the beginning to the end and how the appearance of the neighborhood has improved. Mr. Fieldstad feels he should have to pay for the beautiful environment in which he now lives, but feels that he should not have to pay the same amount as the retailers who have benefited more from the improvements. Mr. Fieldstad explained that he had no new parking installed abutting his property, but the retailers have new parking available for their customers and he does not want to pay for added parking stalls. Mr. Fieldstad also feels the assessment puts him in a position of financial hardship to meet the payments.

Mr. Fieldstad also wanted to convey to the Board that Miss Toombs did an amazing job and she was a joy to work with.

Mr. Peterson explained that Mr. Fieldstad property is zoned commercial and is an owner occupied residence with two rental units. The Board will make a decision about the issue with the parking and

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assessment. The assessment deferment program was explained by Mr. Limburg to Mr. Fieldstad so that he may apply for this program.

**Response:**

The 951 East 900 South property is a four residential unit complex zoned CB (Community Business District) and all properties in the district benefited from the improvements. The \$1,910,000 million project was funded with \$1,390,000 of City and Public Utilities funds, \$99,410 of Federal Economic Development Initiative funds (EDI) funds and \$425,625 of Property Owner SID assessments. The property owners' assessment is for street beautification items such as median islands, landscaping, street and median lighting, street furniture, added cutback parking, and colored sidewalk. All the other project costs were paid by City and EDI funds. Mr. Fieldstad's commercial property, now being used as a residential and rental property, has benefited from the project due to its increased property value and a more desirable 900 East and 900 South neighborhood.

The Board recommends the assessment not be reduced because most of the project was paid for using non property owner funds and Mr. Fieldstad's property and all the other assessed properties received a benefit from the overall project.

**Recommendation of the Board:**

The assessment for this property will not change.

**Current Assessment**

1	Streetscape Improvements	50.00 Ln. ft. @ \$ 239.90	<u>\$ 11,995.00</u>
Total			\$ 11,995.00

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**James Ack**

**For the three following properties:**

**McAck Holdings LLC**

**4203 South Adonis Drive  
Salt Lake City, Utah 84124-3404**

**959 East 900 South  
Salt Lake City, Utah 84105-1430  
16-08-180-041-0000**

**UPS Holdings, LC**

**965 East 900 South  
Salt Lake City, Utah 84105-1430  
16-08-180-042-0000**

**Gretchen, LC**

**952 East 900 South  
Salt Lake City, Utah 84105-1431  
16-08-183-001-0000**

**106018 - 900 East 900 South Streetscape SID**

Mr. Ack questioned why the rate was higher from the first SID notice of intent, and he was wondering when the rate increase came about. Mr. Ack also requested two properties be re-measured due to the frontage being 45.00 lineal feet and not 53.50 lineal feet. He also wanted to know when the deteriorated concrete abutting his property would be replaced. Mr. Ack was also curious about when the artwork will be installed.

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Mr. Ack commended both the Engineering Division and Miss Toombs who has been terrific to work with and for the outstanding job that was done.

Mr. Peterson and Miss Toombs explained that the second letter was sent out to determine the interest of the property owners to pay an increased SID rate due to higher construction cost. Miss Toombs stated that Mr. Ack phoned her and agreed with the new rate. Miss Toombs also explained that at the end of the year warranty, the deteriorated concrete would be replaced by the contractor and the contractor was already aware that he needed to replace the deteriorated concrete at Mr. Ack's property. Miss Toombs explained that the artwork was still going through review and should be installed sometime in the fall of 2007.

**Response:**

Miss Toombs attempted to contact Mr. Ack to explain that the two 53.50 lineal feet properties that he requested re-measurement were correct. The alley way was vacated and became part of both properties listed above and the property frontage is now 53.50 lineal feet for each parcel.

**Recommendation of the Board:**

The assessment for this property will not change.

**106018 - 900 East 900 South Streetscape SID**

**McAck Holdings LLC**

4203 South Adonis Drive  
Salt Lake City, Utah 84124-3404

959 East 900 South  
Salt Lake City, Utah 84105-1430  
16-08-180-041-0000  
Current Assessment  
1 Streetscape Improvements  
Total

53.50 Ln. ft. @ \$ 239.90 \$ 12,834.65  
\$ 12,834.65

**UPS Holdings, LC**

965 East 900 South  
Salt Lake City, Utah 84105-1430  
16-08-180-042-0000  
Current Assessment  
1 Streetscape Improvements  
Total


53.50 Ln. ft. @ \$ 239.90 \$ 12,834.65  
\$ 12,834.65

**Gretchen, LC**

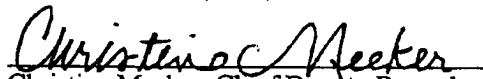
952 East 900 South  
Salt Lake City, Utah 84105-1431  
16-08-183-001-0000  
Current Assessment  
1 Streetscape Improvements  
Total

117.00 Ln. ft. @ \$ 239.90 \$ 28,068.30  
\$ 28,068.30

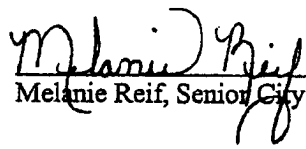
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Max G. Peterson, City Engineer

5-3-2007  
Date

  
Christine Meeker, Chief Deputy Recorder

5-3-07  
Date

  
Melanie Reif, Senior City Attorney

May 3, 2007  
Date

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