
SALT LAKE CITY COUNCIL

MEMORANDUM

DATE: January 4, 2008

SUBJECT: Sidewalk Replacement Special Improvement District, 2004/2005 FY, Job No. 102119
Ordinance confirming modified and equalized assessment lists and levying an assessment against certain properties

AFFECTED COUNCIL DISTRICTS: 6

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

ADMINISTRATIVE DEPT.
AND CONTACT PERSON: Karen Carruthers

NOTICE REQUIREMENTS: N/A

CC: Cindy Gust-Jenson, Sam Guevara, Lyn Creswell, Rick Graham, Max Peterson, Bob Terragno, Diana Karrenberg, Dan Mulé, Tim Harpst, Boyd Ferguson, Karen Carruthers, Garth Limburg, Blaine Carlton, and Jennifer Bruno

FILE LOCATIONS: Public Services/2004-2005 FY SID #102119

POTENTIAL MOTIONS:

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

1. ["I move that the Council"] Adopt an ordinance confirming the modified and equalized assessment lists and levying an assessment against certain properties in the Salt Lake City, Utah Sidewalk Replacement Special Improvement District 2004/2005 FY Job No. 102119 (*for the purpose of paying a portion of the costs of the installation of concrete sidewalks, driveway aprons, curb, gutter and asphalt tie-ins, appurtenances 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*).

NEW INFORMATION:

The 2004/2005 fiscal year Sidewalk Replacement Special Improvement District Job No. 102119 involves the replacement of defective concrete sidewalk and at the property owners' option, defective driveway, curb, and gutter. The boundaries cover the area of 1500 East to 1900 East and from Sunnyside Avenue to 1300 South.

The next step for the City Council is to adopt the attached ordinance confirming the modified and equalized assessment lists and levying an assessment against certain properties within the sidewalk replacement Special Improvement District 2004/2005 FY Job No. 102119 for the purpose of paying a portion of the costs to construct the improvements.

Breakdown of costs for the improvements are as follows:

City Portion	\$ 519,196.19
Property Owners	\$ 494,689.32
Total Estimated Cost	\$1,013,885.51

According to the Administration, assessments for the District may be paid without interest provided they are paid within twenty-five days of the effective date of the ordinance. Any part of the assessment not paid within the twenty-five day period can be paid over a period of five years from the effective date of the ordinance in five equal annual principal installments. Interest will accrue on the unpaid balance at 4.75 percent. The first assessment installment due date shall be approximately October 1, 2008 and subsequent installment payments shall be due on each anniversary date until paid in full.

On July 10, 2007, the City Council adopted a resolution to appoint a Board of Equalization and Review and to set the dates for the Board of Equalization. The Board met for three days, August 28-30, 2007. They heard, 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 actual proposed costs. Nine property owners expressed concern about their proposed assessments relating to improvement work.

For the City Council's review, the Administration has attached a summary of the concerns expressed by nine property owners regarding the proposed SID assessments. Responses and recommendations from the Board of Equalization are also included on the schedule. The Board's findings and re-evaluation of the assessments for the nine properties resulted in one property assessment reduction. The other eight property assessments remained the same. (For specifics regarding property owners' concerns and the Board's findings that determined their recommendations, please refer to the Administration's paperwork.)

PROPERTIES THAT RECEIVED AN ASSESSMENT REDUCTION BASED UPON THE BOARD'S FINDINGS AND RE-EVALUATION	
Property Owner	Assessment Reduction Amount
1. 1842 E. Michigan Avenue 16-09-426-007-0000	\$495.18 reduced to \$363.35
ASSESSMENTS ON PROPERTIES THAT REMAINED THE SAME BASED UPON THE BOARD'S FINDINGS AND RE-EVALUATION	
Property Owner	Assessment Amount Remains the Same
1. 1740 E. Sunnyside Avenue 16-09-252-006-0000	\$2,177.72
2. 1752 E. Michigan Avenue 16-09-407-009-0000	\$1826.44
3. 1678 E. Harvard Avenue 16-09-406-005-0000	\$876.37
4. 1612 E. Laird Avenue 16-09-377-022-0000	\$549.95
5. 1170 South 1700 East 16-09-451-008-0000	\$1,645.53
6. 1058 South 1700 East 16-09-404-013-0000	\$2,777.08
7. 1810 E. Michigan Avenue 16-09-426-002-0000	\$1,934.38
8. 1835 East Herbert Avenue 16-09-427-012-0000	\$328.95

Upcoming action before the City Council will include:

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

The following information was provided previously to the City Council.

It is being provided again for Council's reference.

Chronology of actions taken by the City Council:

- On October 11, 2005 the City Council adopted a Notice of Intention that includes the identified areas within the boundaries that are in need of concrete replacement that will eliminate hazardous situations in the public way.

Western boundary: 1500 East (only includes properties east of 1500 East -- abutting property owners are not included since their sidewalks were part of the 2003/2004 SID concrete replacement Job No. 102112)

Eastern boundary: 1900 East (west side only)

Northern boundary: Sunnyside Avenue (south side only)

Southern boundary: 1300 South (north side only)

- On November 15, 2005, a protest hearing was held.
- On December 13, 2005, the City Council adopted a resolution to accept the bids and authorize execution of a contract to the best bidder for construction work and materials and adopted a resolution to create the district which authorized City officials to proceed with the construction.
- On July 10, 2007, the City Council adopted a resolution to appoint a Board of Equalization and Review and to set the dates for the Board of Equalization to hear and consider any objections and make corrections of any proposed assessments which the Board may deem unequal or unjust. This is an opportunity for property owners to discuss with the Board any actual costs that are being proposed.

Background:

On November 15, 2005, the City Council held a protest hearing at which time there were no verbal protests. The City received protests for seven properties. In order for the District to be created, the protest rate must be less than 50 percent of the total assessable cost (total lineal front footage) within the District. Engineering states "the official protest rate is calculated by dividing the proposed assessable cost of required work for property owners filing written protests by the total proposed assessable cost of required improvements for all property owners in the district." There are 962 properties within the SID boundaries, and the protest rate resulted in a minimal 0.54 percent, consisting of seven properties.

Summary of Protest Costs (7 property owners)		Total Estimated Costs (962 property owners)	
1. 1770 E. Laird Avenue	\$ 434.00	Property Owner's Portion	\$ 628,501
2. 1735 E. Laird Avenue	\$ 434.00	City's Portion	\$ 651,161
3. 1652 E. Sunnyside Avenue	\$ 599.60		
4. 1842 E. Michigan Avenue	\$ 456.25	Total Est. Project Cost	\$1,279,662
5. 1627 E. Yalecrest Avenue	\$ 239.25		
6. 1631 E. Princeton Avenue	\$ 390.60		
7. 1528 E. Harvard Avenue	\$ <u>851.85</u>		
Total	\$ 3,405.75		
Protest rate \$3405.75/\$628,501 =	.54 percent		

Start of the construction was projected in the spring of 2006 with completion by the fall of 2006. The Administration stated that construction will be phased in an effort to minimize disruption and inconvenience to property owners and pedestrians.

A protest hearing was held on, Tuesday, November 15, 2005 at 7:00 p.m. at which time the City Council considered protests that were filed and heard all objections relating to the proposed District. In addition to the seven properties who submitted a protest, one additional comment was submitted to the City Council Office from a property owner.

Comment from property owner at 1724 E. Princeton Avenue

“Since there is a process to 'shave' up to half an inch and it is free, there should be technology/ tools to be able to 'shave' off more and get bids to pay for this service which would be vastly less expensive than paying for tearing up individual slabs and replacing each. There is a run on concrete now and it is expensive. If there is no need to use resources, time and money when it can be avoided and an alternative process can be used, that should be the course taken.”

Response from the Administration: Engineering reported they sawcut sidewalk in the public way for displacements up to 1-1/4 inches at no cost to property owners. Sawcut displacements that are greater than 1-1/4 inches are not cost effective. In addition, ADA issues regarding maximum slope on the sawcut section of concrete are taken into account in determining whether to sawcut or replace a section of sidewalk.

Each year, a concrete replacement project is identified for funding. As the first step in creating the process to establish the Special Improvement District (SID), the Administration requested that the Council adopt a resolution declaring the Notice of Intention that includes the identified areas within the boundaries that are in need of concrete replacement that will eliminate hazardous situations in the public way.

Western boundary: 1500 East (only includes properties east of 1500 East --

abutting property owners are not included since their sidewalks were part of the 2003/2004 SID concrete replacement Job No. 102112)

Eastern boundary: 1900 East (west side only)
Northern boundary: Sunnyside Avenue (south side only)
Southern boundary: 1300 South (north side only)

Funding sources are allocated from the Salt Lake City CIP budget and property owner assessments through the SID as follows:

Sidewalk Replacement Area No. 102119 (Council District 6)

Property owners:	\$ 628,501
Salt Lake City Funds:	<u>\$ 651,161</u>
Total	\$1,279,662

Assessments may be paid by property owners in five (5) approximately equal annual installments.

Informal public meetings were scheduled on November 2, 2005 for the Administration to review the proposed SID with interested abutting property owners. The meeting location was held at the multi-purpose room at Bonneville Elementary School, 1145 south 1900 East from 3:30 p.m. to 4:30 p.m. and from 5:00 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. Property owners were then notified that the City is considering a proposed sidewalk replacement project that includes their properties. The property owners were informed that the cost to replace defective concrete will be shared 50/50 by the City and the property owner; however, commercial properties pay the full cost of the replacement.

Also property owners were made aware that the City will use a horizontal saw cutting contractor to remove the vertical displacements of up to one inch in sidewalk sections at no cost to the property owner thus reducing property owner costs and eliminating hazardous situations. Saw cutting of the vertically displaced section could either take place before or after the work of replacing the designated sidewalk sections is completed. For areas identified for saw cutting, property owners are given the option to express preference to have sidewalk area replaced rather than saw cut; however sidewalk replacement in these incidences requires property owners to pay the cost of the sidewalk removal and replacement.

Areas identified by the City exceeding the one inch of sidewalk vertical displacement that do not warrant horizontal saw cutting or that are badly broken and deteriorated will be replaced as part of the SID.

Property owners are provided the option to have driveway approaches, curb and gutter work, and asphalt tie-ins and other necessary miscellaneous work to complete

improvements performed in conjunction with the proposed SID improvements, with the property owner being responsible for optional replacement costs. Property owners who wish to have optional improvements made have until March 1, 2006 to submit in writing a request.

To ensure that the assessments are equitable to the property owners involved in the District, an exception is given to corner lot properties. The sidewalk replacement costs associated with the first 75 feet along a non-address side of a property is excluded from the property owner's assessment cost. However, any optional improvements of curb, gutter, and driveway approach replacements are excluded in the exception and are again at the owner's expense.

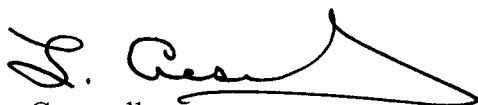
It was stated in the Resolution that abutting property owners within the SID area to be improved who have built or installed "nonconforming improvements such as lawns, shrubs, hedges, sprinkling systems, rock gardens, driveways, curb, gutters, culverts, walks, fences, etc." must be removed at the property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

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

- The property owner and the City execute a "Defective Concrete Agreement" that requires approval by the City Engineer. The agreement will permit the property owner to seek another manner in which to replace the concrete rather than participate in the SID. A property owner must identify the manner in which the defective concrete will be replaced and provide a timeline as to when replacements will occur. If failure on the part of the property owner to complete the work on time occurs, the agreement becomes null and void. This results in the property being added back to the District or a future district. The District will make the replacements and assess the property owner for the cost of improvements. If a property owner chooses to find another manner in which to complete the concrete replacement, the owner must comply with City standard plans and specifications and a no fee permit to work in the public way is required.
- 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 owner 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 an annual basis.
- The property owner may hire a private contractor to complete the work of the defective concrete.

DEC 27 2007

COUNCIL TRANSMITTAL



TO: Lyn Creswell
Chief Administrative Officer

DATE: December 13, 2007

FROM: Rick Graham, Director *Rg*
Public Services Department

SUBJECT: Assessment Ordinance for the Sidewalk Replacement Special Improvement District, 2004/2005 FY, Job No. 102119

STAFF CONTACT: Karen Carruthers, 535-6355

DOCUMENT TYPE: Ordinance

RECOMMENDATION: That the Council adopt the Assessment Ordinance levying an assessment upon each property identified in the assessment list for the purpose of paying the cost to construct the improvements in the Sidewalk Replacement Special Improvement District, 2004/2005 FY, Job No. 102119.

BUDGET IMPACT:	City Portion	\$ 519,196.19
	Property Owners	\$ 494,689.32
	Total Estimated Cost	\$1,013,885.51

BACKGROUND/DISCUSSION: The Sidewalk Replacement special Improvement District 2004/2005 FY, Job No. 102119 involves the replacement of defective concrete sidewalk and at the property owner's option, defective driveways, curb and gutter. The District is bounded by 1500 East to 1900 East and Sunnyside Avenue to 1300 South. Construction of this project was completed in the spring of 2007. 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 five3 years from the effective date of the ordinance.

PUBLIC PROCESS: The Board of Equalization hearings were held on August 28th, 29th, and 30th of 2007.

Salt Lake City, Utah

January 8, 2008

A regular meeting of the City Council of Salt Lake City, Salt Lake County, Utah, was held on Tuesday, the 8th day of January, 2008, 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
Søren Dahl Simonsen	Councilmember
K. Eric Jergensen	Councilmember
Carlton Christensen	Councilmember
Luke Garrott	Councilmember
J.T. Martin	Councilmember

Also present:

Ralph Becker	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 8th day of January, 2008, meeting, a copy of which is attached hereto as Exhibit A.

The Board of Equalization and Review (the "Board") for "Salt Lake City, Utah Sidewalk Replacement Special Improvement District 2004/2005 FY Job No. 102119" (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 28th, 29th and 30th day of August, 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 2008

AN ORDINANCE CONFIRMING THE MODIFIED AND EQUALIZED ASSESSMENT LISTS AND LEVYING AN ASSESSMENT AGAINST CERTAIN PROPERTIES IN THE SALT LAKE CITY, UTAH SIDEWALK REPLACEMENT SPECIAL IMPROVEMENT DISTRICT 2004/2005 FY JOB NO. 102119 (THE "DISTRICT"), FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF THE INSTALLATION OF CONCRETE SIDEWALKS, DRIVEWAY APRONS, CURB, GUTTER AND ASPHALT TIE-INS, APPURTENANCES 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, 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 list 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 a portion of 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 \$1,013,885.51 including allowable related expenses. Of this total cost, the City's portion is \$519,196.19. 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 \$494,689.32. 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, if any; 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-five (25) days after this Ordinance becomes effective. Any part of the assessment not paid within such twenty-five (25)-day period shall be payable over a period of five (5) years from the effective date of this Ordinance in five (5) 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 three-quarters percent (4.75%) 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. The first assessment installment payment due date shall be on or about October 1, 2008, and subsequent installment payments shall be due on each anniversary date of the first assessment installment payment due 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-five (25)-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 or the Chief Deputy 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 25-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 8th day of January, 2008.

(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 _____, 2008.

By: _____
Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this _____ day of _____, 2008.

Ralph Becker
Mayor

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

I, _____, 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 8th day of January, 2008, insofar as the same relates to or concerns the Salt Lake City, Utah Sidewalk Replacement Special Improvement District 2004/2005 FY Job No. 102119 (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 8th day of January, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Salt Lake City this 8th day of January, 2008.

(SEAL)

By: _____
Deputy City Recorder

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

AFFIDAVIT OF MAILING
NOTICE OF ASSESSMENT

I, Daniel A. Mulé, the duly appointed and qualified City Treasurer of Salt Lake City, Utah, do hereby certify that on the ___ day of January, 2008, I caused to be mailed a Notice of Assessment to each property owner in the Salt Lake City, Utah Sidewalk Replacement Special Improvement District 2004/2005 FY Job No. 102119 (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, Utah this ___ day of _____, 2008.

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 8th day of January, 2008, 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, 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 8th day of January, 2008, 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 4th day of January, 2008, 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 4th day of January, 2008, at least twenty-four (24) hours prior to the convening of the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this 8th day of January, 2008.

(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**

Sidewalk Replacement Special Improvement District 2004/2005 F.Y., Job No. 102119

The Board of Equalization Hearings for Special Improvement District Number 102119 were held on August 28, 29, and 30, 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:

Carlton Christensen,	City Council Member
Nancy Saxton,	City Council Member
Eric Jergensen,	City Council Member
John Naser,	Deputy City Engineer
Garth Limburg,	Special Assessment Coordinator

Assisting the Board were the following individuals:

John Coyle,	Project Manager
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, August 28, 2007

**Jean & Parker Robison
1740 East Sunnyside Avenue
Salt Lake City, Utah 84108-1328
16-09-252-006-0000**

Mr. & Mrs. Robison wondered why they received two assessments. Mr. Naser explained that state statutes require two assessment notices be mailed, one to the property address and one to the owner's address. The Robison's asked when the bill would be due. An explanation of the billing process along with interest and bonding expenses were explained by Mr. Naser and Mr. Limburg. Mrs. Robison feels some of the concrete work that was done was unnecessary.

Mr. Robison stated that their property has a very long frontage and is a narrow lot and requested some relief of this assessment due to the lot's shape. Mr. Robison stated their initial estimate was about two sections of sidewalk. Mrs. Robison indicated there are foot prints in the concrete work but they are not deep. Mr. Coyle will re-measure their sidewalk assessment and check on the affects of the footprints in the sidewalk. Mr. Naser stated that the Board may evaluate the assessment due to the property being an odd shaped lot.

Response:

The estimated assessment based on the improvement district "Notice of Intention" was not significantly different from the Robison's final assessment. The amount of sidewalk replaced matches the amount identified in the Robison's original estimate. The lot appears long and narrow, but the County sidwell map shows that they have a large usable lot. The footprints in the concrete work are on their neighbor's property and are not deep

enough to warrant any repairs. There was no discrepancy found in the measurement of the concrete.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	224.50 Sq. ft. @ \$ 4.30	\$ 965.35
A2	Required 6" Residential Sidewalk	234.50 Sq. ft. @ \$ 5.17	<u>\$ 1,212.37</u>
Total			\$ 2,177.72

Edith Wasden

**1752 East Michigan Avenue
Salt Lake City, Utah 84108-1320
16-09-407-009-0000**

Edith Wasden stated her grass is a mess as it may have been installed too late in the season. She also felt too many squares of sidewalk were replaced in front of her home. Ms. Wasden was unhappy with the color of grass that was placed next to new sections of sidewalk. Mr. Naser explained the guidelines of why certain sections of sidewalk are identified for replacement. Mr. Coyle will check the assessment and also the grass condition.

Response:

There was no discrepancy found in the measurement of the concrete. The sod seems to be doing fine and is greener than the existing lawn. The color of the sod should match the existing when maintained in the same manor as the rest of Ms. Wasden's lawn.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	127.00 Sq. ft. @ \$ 4.30	\$ 546.10
Total			\$ 546.10

Wednesday, August 29, 2007

Maria Anton

**1678 East Harvard Avenue
Salt Lake City, Utah 84105-1728
16-09-406-005-0000**

Maria Anton stated her sidewalk wasn't that bad and she never gave permission for the concrete work to be done in front of her home. Ms. Anton indicated that she can't pay for the work due to financial hardships. Mr. Naser and Mr. Limburg explained the payment options available and also the City's deferral program. Ms. Anton also doesn't want to pay for her neighbor's extra work that was completed. Mr. Naser explained that everyone pays for only the work completed at their property. Ms. Anton received an explanation of the property owners costs verse the City costs for this SID. Ms. Anton requested a re-measurement of the work completed.

Response:

At the time of the final billing Ms. Anton needs to contact Mr. Limburg regarding the City deferral program. Mr. Coyle re-measured the concrete work and there was no discrepancy found in the measurement.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	148.50 Sq. ft. @ \$ 4.30	\$ 638.55
A2	Required 6" Residential Sidewalk	46.00 Sq. ft. @ \$ 5.17	<u>\$ 237.82</u>
Total			\$ 876.37

Margaret & John Duder
1842 East Michigan Avenue
Salt Lake City, Utah 84108-1322
16-09-426-007-0000

Mr. Duder believes that he, along with his neighbor at 1846 East Michigan Avenue, who shares a driveway, had their sidewalk and driveway approach replaced several years ago possibly through the City 50 /50 Program. Mr. Duder stated that he shouldn't have to pay for it again through the SID. Mr. Duder presented documents that he had filed to protest the SID and also a statement about the work that was completed at 1842 East Michigan Avenue. Mr. Duder stated that the same sections of sidewalk were replaced in the past and he feels that paying for them once should be enough.

Response:

Robert Beard, the City concrete manager of the 50/50 program, could find no record of work completed by the 50/50 Program at 1842 East Michigan Avenue. Mr. Coyle looked at the concrete work and determined the replaced 6" sidewalk was the sidewalk that was replaced several years ago as part of the driveway approach. Mr. Coyle and Mr. Duder met and agreed the City should pay for the 6" sidewalk and that Mr. Duder would still pay for the defective 4" sidewalk replaced as part of this project.

Recommendation of the Board:

The Board recommends the assessment be revised as follows:

Current Assessment

A1	Required 4" Residential Sidewalk	84.50 Sq. ft. @ \$ 4.30	\$ 363.35
A2	Required 6" Residential Sidewalk	25.50 Sq. ft. @ \$ 5.17	<u>\$ 131.84</u>
Total			\$ 495.18

Revised Assessment

A1	Required 4" Residential Sidewalk	84.50 Sq. ft. @ \$ 4.30	\$ 363.35
A2	Required 6" Residential Sidewalk	0.00 Sq. ft. @ \$ 5.17	<u>\$ 0.00</u>
Total			\$ 363.35

Verlie Kirk Represented by Maryanne Kirk
1612 East Laird Avenue
Salt Lake City, Utah 84105-1732
16-09-377-022-0000

Ms. Kirk represented her mother Verlie Kirk and inquired about why the work was done at their home. Mr. Naser explained that the Engineering Division is governed by City ordinances that define what condition a sidewalk needs to be in before it is required to be replaced. Mr. Naser explained why certain squares were saw cut and others replaced. Mr. Naser and Mr. Limburg gave an explanation of the billing process along with interest and bonding expenses.

Response:

When Ms. Kirk receives the final billing, she will need to contact Mr. Limburg regarding the payment deferral if needed.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	78.00 Sq. ft. @ \$ 4.30	\$ 335.40
A2	Required 6" Residential Sidewalk	41.50 Sq. ft. @ \$ 5.17	<u>\$ 214.56</u>
Total			\$ 549.95

Gary & Angela Harding
1170 South 1700 East
Salt Lake City, Utah 84108-1864
16-09-451-008-0000

Mr. Harding had requested an estimate to replace their driveway approach as optional work in the improvement district. Mr. Harding stated that his estimate was \$300.00 lower than his final assessment amount. Mr. Naser explained that the estimated prices were taken from the improvement district "Notice of Intent". The final cost for the driveway was determined after all the work on the project was completed and costs were compiled. Mr. Harding wanted to know if the City had knowledge that the rates would increase at the time of his estimate. With the knowledge the costs could increase shouldn't the City have given this information to the property owners who chose to have optional work done. Mr. Naser explained that while they had the contractor's rates there were still many other costs that had to be added in to the final rates. Mr. Harding agreed with the quantities of the work performed.

If Mr. Harding had known that that estimate was \$300.00 less than the actual cost, he probably would not have had the work done and feels the process should change. Mr. Harding doesn't feel he should have to pay a 20 % increase on the work that was completed.

Ms. Saxton asked Mr. Harding if he is asking the City to change this process so that any property owners who are having optional work should be notified of the rate changes.

Mr. Harding stated he would prefer to pay the estimated amount, rather than the current assessment.

Response:

All of the sidewalk and driveway estimates given on the Project are at the "Notice of Intents" rates. City Engineering does not know what the final costs will be at the time the estimates are given, that is why costs are stated as only estimates. Mr. Coyle reviewed the estimates given to Mr. Harding. The initial estimate for required work was \$504.75 and the estimate for optional work was \$992.56. Mr. Harding's total estimate for the work was \$1,557.31 which is \$88.22 less than the current assessment of \$1,645.53.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	100.50 Sq. ft. @ \$ 4.30	\$ 432.15
A1a	Corner Property Exemption	25.00 Sq. ft. @ \$ - 4.30	\$ - 107.50
A2	Required 6" Residential Sidewalk	25.00 Sq. ft. @ \$ 5.17	\$ 129.25
B3	Optional Defective 6" Drive Approach	98.30 Sq. ft. @ \$ 7.22	\$ 709.73
B7	Optional Defective Residential Curb	18.00 Ln. ft. @ \$ 18.56	\$ 334.08
B10	Optional Asphalt tie-in 4" Thick	38.00 Sq. ft. @ \$ 3.89	<u>\$ 147.82</u>
Total			\$ 1,645.53

Thursday, August 30, 2007

Lynn & Kathryn Skene
1058 South 1700 East
Salt Lake City, Utah 84108-1862
16-09-404-013-0000

Mr. Skene wanted an explanation of his assessment. Mr. Skene was happy with the work. Mr. Skene expressed concerns about the high crown of the roadway adjacent to his property. He explained that the previous problem with cars scraping in the driveway was fixed. Mr. Skene wondered who was liable for the sidewalk. Mr. Naser explained how sidewalk is evaluated and that only the bad sidewalk is replaced. By ordinance the property owners are responsible for maintaining their sidewalk. Mr. Naser and Mr. Limburg gave an explanation of the billing process along with interest and bonding expenses.

Response:

The asphalt buildup on the roadway is beyond the scope of this project and can only be addressed when the roadway is reconstructed. Replacement of the driveway did correct the problem of the asphalt build up along the curb at the Skene's property.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	167.00 Sq. ft. @ \$ 4.30	\$ 718.10
A2	Required 6" Residential Sidewalk	42.00 Sq. ft. @ \$ 5.17	\$ 217.14
B3	Optional Defective 6" Drive Approach	82.50 Sq. ft. @ \$ 7.22	\$ 595.65
B7	Optional Defective Residential Curb	48.70 Ln. ft. @ \$ 18.56	\$ 903.87
B10	Optional Asphalt tie-in 4" Thick	88.00 Sq. ft. @ \$ 3.89	<u>\$ 342.32</u>
Total			\$ 2,777.08

Lynn & Marjorie Call
1810 East Michigan Avenue
Salt Lake City, Utah 84108-1322
16-09-426-002-0000

Mr. & Mrs. Call were happy with the work and wanted to find out why the price was somewhat higher than they thought it would be. Mr. Call also wanted to know who was liable for the sidewalk. Mr. Naser explained the estimated prices were taken from the "Notice of Intent" which was estimated before the work began and that property owners were responsible for the sidewalks. Mr. Call asked about payment terms and Mr. Limburg gave an explanation of the billing process along with interest and bonding expenses. Mr. Call wanted to know if the entire City was treated the same when sidewalks are replaced because of their condition. Mr. Call stated that they are okay with the measurements. Mr. Naser stated that this improvement district program and has been replacing sidewalk in the City for the last 20 years and everyone is treated the same.

Response:

Final costs are determined after all work is completed and costs are compiled.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	132.00 Sq. ft. @ \$ 4.30	\$ 567.60
B3	Optional Defective 6" Drive Approach	50.00 Sq. ft. @ \$ 7.22	\$ 708.28
B7	Optional Defective Residential Curb	98.10 Ln. ft. @ \$ 18.56	\$ 464.00
B10	Optional Asphalt tie-in 4" Thick	25.00 Sq. ft. @ \$ 3.89	\$ 194.50
Total			\$ 1,934.38

Ron & Diana Ditcher

1835 East Herbert Avenue
 Salt Lake City, Utah 84108-1831
 16-09-427-012-0000

Mr. Ditcher didn't own the property at the time of the creation of this SID and knew nothing about the project. He doesn't feel he should have to pay for the sidewalk and wanted to find out who is responsible for the assessment. Mr. Limburg and Mr. Jergensen explained to Mr. Ditcher that there should have been something in his title report when he purchased the property stating who is responsible for the assessment. If there is nothing about this assessment in these documents, then the title company may be responsible for this assessment. Mr. Ditcher stated that he feels that he shouldn't have to fix this assessment problem.

Response:

The Board told Mr. Ditcher to contact his title company. The City cannot be responsible for the conditions or requirements present when he purchased the property.

Recommendation of the Board:

The assessment for this property will not change.

Current Assessment

A1	Required 4" Residential Sidewalk	76.50 Sq. ft. @ \$ 4.30	\$ 328.95
Total			\$ 328.95


Carlton Christensen, City Council

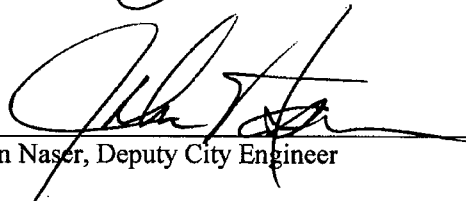
9/20/07
Date


Nancy Saxton, City Council

9-19-07
Date


Eric Jergensen, City Council

9-19-07
Date


John Naser, Deputy City Engineer

9/20/07
Date


Garth Limburg, Special Assessment Coordinator

9-19-07
Date