

FRANK B. GRAY
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

SCANNED TO: *Mare*
SCANNED BY: *George*
DATE: *3/31/2010 11:58 AM*
RALPH BECKER
MAYOR

MARY DE LA MARE-SCHAEFER
DEPUTY DIRECTOR

ROBERT FARRINGTON, JR.
DEPUTY DIRECTOR

CITY COUNCIL TRANSMITTAL



David Everitt, Chief of Staff

Date Received: 03/31/2010

Date Sent to City Council: 03/31/2010

TO: Salt Lake City Council
JT Martin, Chair

DATE: March 30, 2010

FROM: Frank Gray, Community & Economic
Development Department Director

RE: Creation of Central Business Improvement Area 10 (CBIA-10)

STAFF CONTACTS: Bob Farrington
Economic Development Director and CED Deputy Director
Bob.Farrington@slcgov.com 801-535-7945

RECOMMENDATION: That the City Council accept the Recommendation and Decision of the CBIA-10 Board of Equalization regarding the proposed assessments to be levied within the CBIA-10 assessment area, and adopts an ordinance to create the Central Business Improvement Area 10 (CBIA-10), for the purpose of promoting business activity and economic development in downtown Salt Lake City.

DOCUMENT TYPE: Ordinance

BUDGET IMPACT: Funding for the Area will be provided by property owner assessments. The anticipated total income from the three year assessment is approximately \$2,692,258. The City will charge the Area \$146,288 for management fees, legal fees, publish, postage, and recording fees, \$80,764 will be held in a reserve account and the balance, \$2,465,105, will be utilized by the management entity to provide services and promotions in for the Area.

DISCUSSION:

The renewal process for CBIA-10 began in September 2009 with a description of the proposed boundaries of the Area and a proposed assessment rate. In November 2009 the City Council received a briefing from the Department of Community and Economic Development about the



proposed Area creation and purpose. On November 17 the City Council adopted the "Notice of Intention" to designate the Assessment Area. In December 2009 property owners were invited to an information public hearing to ask questions and provide comments about the creation of the Area. January 12 was the deadline for written protests by property owners to be submitted to the City Council. The total protest rate by valuation of property owners within the Area was less than 4% of the total valuation of the Area. On January 19 the City Council adopted a resolution to designate the Assessment Area and appointed a Board of Equalization to hear protests or corrections to valuations of property within the area. The Board of Equalization for CBIA-10 met February 16, 17, 18 of 2010 to hear the protests and made their record of Decision on March 22, 2010. Property owners then had 15 days to appeal the Decision to the City Council. After that a final Assessment List and Assessment Ordinance for CBIA-10 will be adopted by the City Council.

The City issued Requests for Proposals for Management services for CBIA-10 in December 2009. One proposal was submitted, by the Salt Lake City Downtown Alliance. A selection committee reviewed the submittal and found it to be responsive to the RFP and recommended that the contract be awarded to the Downtown Alliance of Salt Lake City for management services for CBIA-10. The contract will begin April 21, 2010 and run for three years to April 20, 2013. The contract is expected to be signed by both parties no later than April 21, 2010.

Salt Lake City, Utah

April 13, 2010

A regular meeting of the City Council of Salt Lake City, Utah, was held on Tuesday, April 13, 2010, at the hour of 7:00 p.m. at the offices of the City Council at 451 South State Street, Salt Lake City, Utah, at which meeting there were present and answering to roll call the following members who constituted a quorum:

JT Martin	Chair
Jill Remington-Love	Vice Chair
Soren Dahl Simonsen	Councilmember
Stan Penfold	Councilmember
Van Blair Turner	Councilmember
Luke Garrott	Councilmember
Carlton Christensen	Councilmember

Also present:

Ralph Becker	Mayor
Edwin P. Rutan, II	City Attorney
	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 City Recorder presented to the City Council a Certificate of Compliance with Open Meeting Law with respect to this April 13, 2010, meeting, a copy of which is attached hereto as Exhibit A.

The Board of Equalization and Review (the "Board") for "Central Business Improvement Assessment Area No. CBIA-10 (the "CBIA-10 Assessment Area"), presented to the City Council its report and stated that it had reviewed statements, comments and complaints on each property in the CBIA-10 Assessment Area as listed in the minutes of the hearings of the Board held on February 16, 17, and 18, 2010.

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 CBIA-10 Assessment Area 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 assessment list as adjusted herein, will bear more than its proportionate share of the costs of the Economic Promotion Activities in the CBIA-10 Assessment Area.

RECOMMENDATION AND DECISION

It is the decision of the Board that the proposed assessment list, as adjusted by the modifications shown in Exhibit C, is equitable and that the Economic Promotion Activities being financed thereby constitute a benefit to the properties to be assessed. The assessment list is approved subject to the modifications shown on Exhibit C attached hereto.

The City Recorder is hereby authorized and directed to mail, at the property owner's mailing address, 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 owner's property.

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 assessment list, as adjusted.

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 CBIA-10 Assessment Area. The motion carried unanimously.

The 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 CBIA-10 Assessment Area. 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 City Recorder in the official records of Salt Lake City, Utah. The ordinance is as follows:

ORDINANCE NO. _____ of 2010

An ordinance confirming the equalized assessment list and levying an assessment against certain properties in the Salt Lake City, Utah Central Business Improvement Assessment Area No. CBIA-10 (the "CBIA-10 Assessment Area"), for the purpose of continuing to promote business activity and economic development in an area of Central Downtown Salt Lake City, including but not limited to, advertising, banners, special events and festivals, newsletters and publications, Christmas lighting, and special projects (the "Economic Promotion Activities") in the downtown area; 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 Economic Promotion Activities within the CBIA-10 Assessment Area, 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 lists for the CBIA-10 Assessment Area, copies of which are 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 CBIA-10 Assessment Area will be benefited in an amount not less than the assessment to be levied against said property; and that no piece of property listed in the assessment list will bear more than its proportionate share of the cost of the Economic Promotion Activities.

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 to promote business, economic, and community development activities in the central business area of downtown Salt Lake City by financing the Economic Promotion Activities described herein.

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 Economic Promotion Activities acquired or constructed within the CBIA-10 Assessment Area. The assessments are levied upon the parcels of land in the CBIA-10 Assessment Area at equal and uniform rates.

Section 4. Cost of Economic Promotion Activities; Amount of Total Assessments The total cost of the Economic Promotion Activities in the CBIA-10 Assessment Area is \$2,692,158.51 including allowable related expenses. Of this total cost, the City's portion is \$0. The City's portion for the CBIA-10 Assessment Area includes that part of the overhead costs for which an assessment cannot be levied, if any, and the cost of making the Economic Promotion Activities 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 Economic Promotion Activities in the CBIA-10 Assessment Area is \$2,692,158.51. These amounts do not exceed in the aggregate the sum of: (a) the total contract price or prices for the Economic Promotion Activities under contract which will be duly let to the lowest and best responsible bidder therefore and a portion of the costs of installation, designing and inspection; (b) the reasonable cost of utility services, maintenance, labor, materials or equipment supplied by the City, if any; (c) the property price, if any; (d) connection fees, if any; (e) the interest on any interim warrants issued against the CBIA-10 Assessment Area; and (f) overhead costs not to exceed fifteen percent (15%) of the sum of (a), (b), (c) and (d).

Section 5. Method and Rate. The assessment is a one-time assessment for a three year period on property in the CBIA-10 Assessment Area to pay all or a portion of the estimated costs of Economic Promotion Activities. The total assessment for the CBIA-10 Assessment Area is levied based upon 2009 taxable property values as set out in the Notice of Intention pertaining to the CBIA-10 Assessment Area. The assessment for each property was determined based on costs as set out in the preceding Section.

Section 6. Payment of Assessments. Assessments shall be payable in full or in three (3) annual installments (the "Assessment Installment" or "Installments"). If payable in three (3) annual installments, the first Installment will fall due June 1, 2010. The second and third Installments will fall on the first and second anniversary dates of the first Installment. If any Installment is not paid by the due date, the unpaid Installment(s) will accumulate delinquent interest and/or charges in accordance with this Assessment Ordinance and State law.

Section 7. Default in Payment. If a default occurs in the payment of any assessment installment when due, the City may (a) declare the delinquent amount to be immediately due and subject to collection, or (b) accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and interest then due to be immediately due and payable. Additional interest shall accrue and be paid on all amounts declared to be delinquent or accelerated and immediately due and payable at the same rate as 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, may be charged and paid on all amounts declared to be delinquent or accelerated and immediately due and payable. In lieu of accelerating the total assessment balance when one or more assessment installments become delinquent, the City may elect to bring an action to collect only the delinquent portion of the assessment plus interest at the Delinquent Rate and Collection Costs.

Upon any default, the City Treasurer shall give notice in writing of the default to the owner of the property in default as shown by the last available equalized assessment rolls. Notice shall be effective upon deposit of the notice in the U.S. Mail, postage prepaid, and addressed to the owner as shown on the last equalized assessment rolls for the City or on the official ownership records of Salt Lake County. The notice shall provide for a period of thirty (30) days in which the owner shall pay the installments then due and owing together with accrued interest at the regular rate plus costs as determined by the City Treasurer. If the City elects to use the enforcement remedy involving acceleration, the Notice shall also declare that after the thirty (30) day period the City shall accelerate the then unpaid balance of the principal of the assessment to be immediately due and payable together with Collection Costs and interest on the entire unpaid balance to accrue from the date of delinquency at the Delinquent Rate. Thereafter, the City may commence foreclosure proceedings in the manner provided for actions to foreclose mortgage liens or trust deeds. If the City elects to utilize the trust deed enforcement remedy, the City Attorney shall designate a trust deed trustee for purposes of the enforcement action. If at the sale no person or entity shall bid and pay the City the amount due on the assessment plus interest and costs, the property shall be deemed sold to the City for 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 invalid 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 thirty (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 assessments levied in the CBIA-10 Assessment Area shall become incontestable as to all persons who have not commenced the action and served a summons provided for in this section; and

(b) A suit to enjoin the levy, collection, or enforcement of the assessment, or to attack or question the legality of the 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 CBIA-10 Assessment Area. 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 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 Treasurer is hereby authorized and directed to file a Notice of Assessment Interest with the Salt Lake County Recorder within five (5) days after the due date provided in Section 6. Such Notice shall (1) state that the City has an assessment interest in the assessment property, and (2) describe the property assessed by legal description and tax identification number.

PASSED AND APPROVED by the City Council of Salt Lake City, Utah, this
April 13, 2010.

(SEAL)

By: _____
Chair

ATTEST:

By: _____
City Recorder

The City Treasurer was thereupon authorized to mail to the property owners in the CBIA-10 Assessment Area 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: _____
City Recorder

PRESENTATION TO THE MAYOR

The foregoing ordinance was presented to the Mayor for his approval or disapproval on this April ___, 2010.

By: _____
Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this April ___, 2010.

Ralph Becker
Mayor

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

I, _____, the duly appointed and qualified 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 April 13, 2010, insofar as the same relates to or concerns the "Salt Lake City, Utah Central Business Improvement Assessment Area No. CBIA-10 (the "CBIA-10 Assessment Area"), 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 April 13, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Salt Lake City this April 13, 2010.

(SEAL)

By: _____
 City Recorder

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

AFFIDAVIT OF MAILING
NOTICE OF ASSESSMENT

I, Daniel A. Muñ, the duly appointed and qualified City Treasurer of Salt Lake City, Utah, do hereby certify that on _____, 2010, I caused to be mailed a Notice of Assessment to each property owner in the "Salt Lake City, Utah Central Business Improvement Assessment Area No. CBIA-10" (the "CBIA-10 Assessment Area"), 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 _____, 2010.

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 April 13, 2010, was published one time in the Deseret News.

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, _____, the undersigned 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 April 13, 2010, 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 April __, 2010, 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 News on April __, 2010, at least twenty-four (24) hours prior to the convening of the meeting; and

(c) By causing a copy of such Notice to be posted on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting.

In addition, the Notice of 2010 Annual Meeting Schedule for the City Council (attached hereto as Schedule 2) was given specifying the date, time, and place of the regular meetings of the City Council to be held during the year, by causing said Notice to be (a) posted on _____, at the principal office of the City Council, (b) provided to at least one newspaper of general circulation within the Issuer on _____, and (c) published on the Utah Public Notice Website (<http://pmn.utah.gov>) during the current calendar year.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this April 13, 2010.

(SEAL)

By: _____
City Recorder

SCHEDULE 1

NOTICE OF MEETING

SCHEDULE 2

NOTICE OF 2010 ANNUAL MEETING SCHEDULE

EXHIBIT B

ASSESSMENT LIST

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