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DEPUTY DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

SCANNED TO: *W. Ayres*
SCANNED BY: *H. Ayres*
DATE: 08/13/2010

RALPH BECKER
MAYOR

RECEIVED

AUG 13 2010

Salt Lake City Mayor

CITY COUNCIL TRANSMITTAL


David Everitt, Chief of Staff

Date Received: 08/13/2010
Date sent to Council: 08/17/2010

TO: Salt Lake City Council
JT Martin, Chair

DATE: August 17, 2010

FROM: Frank Gray, Director
Community and Economic Development



SUBJECT: Designation of North Temple Boulevard Special Assessment Area
600 West to Redwood Road
Nos. LC-109017 and M-109018

STAFF CONTACT: John Naser, P.E., City Engineer – 801-535-6240
john.naser@slcgov.com

DOCUMENT TYPE: Designation Resolution

RECOMMENDATION:

It is recommended that the City Council approve a resolution designating the subject Special Assessment Area (SAA) as modified and proceed with the street and pedestrian lighting, enhanced landscaping and urban elements of North Temple Boulevard from 600 West to Redwood Road. It is also recommended that no urban element be installed from Redwood Road to 2400 West, other than the burying of overhead power lines installation of the ten-foot, multi-use pathway, traffic signal upgrades and enhancement to the 1950 West light rail station. The existing street lighting system in this area would remain.

BUDGET IMPACT:

Funds are provided from the Salt Lake City capital improvement budget, North Temple Alliance funds established in the Salt Lake City/Utah Transit Authority Airport Interlocal Agreement, an allocation from affected State properties, an allocation from the State Legislature for the North Temple Boulevard and property owner assessments through the SAA.

The total estimated cost of the lighting system and boulevard elements from 600 West to Redwood Road and limited improvements west of Redwood Road, is \$24,171,100. Approximately \$22,991,300 of the total will be paid by the City and other funding



sources, including approximately \$8,844,200 in City CIP and Sale Tax Bond Funds, \$10,000,000 of Airport Light Rail Alliance Funds, approximately \$386,200 of State of Utah Funds for lighting improvements at State properties, a \$3,500,000 allocation from the State Legislature for the North Temple Boulevard and \$261,000 of UTA cost sharing funds for the street light system. The remaining estimated \$1,181,800 will be paid by the property owner assessments. Of the total cost, \$1,200,000 includes future City projects for enhanced bus stops shelters, solar panels at the light rail stations and Jordan River Parkway enhancements.

The above City total includes \$4,485,200 in possible Sale Tax Bond funds; \$3,285,200 if the future City projects are not funded at this time. The project design is complete and entering the final bidding and cost determination phase. Estimated costs for the boulevard elements have not changed, but considerable overruns are possible with the right-of-way acquisition. The final not-to-exceed cost for the North Temple improvements will be determined by the end of October. At that time, the actual bond fund amount, if necessary, will be determined.

600 West to Redwood Road is 77% of the length of the North Temple Boulevard from 600 West to I-215 (1980 West).

BACKGROUND/DISCUSSION:

The process for establishing the North Temple Boulevard SAA began February 16, 2010 with the City Council adopting a resolution to designate the "Notice of Intent" for LC-109015 and M-109016 for the lighting installation and annual maintenance funding. The proposed property owner assessment involved payment for the installation of a street and pedestrian light system and ongoing maintenance of the lighting systems and boulevard elements. This maintenance included park strip landscaping upkeep, repairs and operation of the irrigation systems, debris removal from park strip areas, trash receptacles, lighting and removal of snow and ice from the walkways.

A public hearing for this SAA was held on April 13, 2010 to receive comments and protests from affected property owners. The owners rejected the assessments, as proposed, with a 61% written protest. This was due to the estimated costs and uncertain economic conditions. The annual \$15.50 per foot cost assessment for boulevard maintenance and the one-time \$185 per foot assessment for lighting was what most opposed. The property owners protested the proposal without receiving the information about the SAA or its being advertised in the local newspapers. The Administration did not proceed with the advertisement and mailing because of the opposition raised by property owners. The intent was to redo the requirements and costs of the SAA and restart the process, which was done.

The majority of these written protests were compiled by an individual property owner opposing the SAA, which then were presented to the City on April 12, 2010. Each of these owners signed a form letter stating their ownership and protest of the assessment. On April 20, 2010 the Council subsequently repealed the resolution of their intention to create that first North Temple Boulevard SAA, as presented.

Due to this opposition, the Administration revised the requirements and estimated costs and proposed a revised SAA. The revised assessment for street and pedestrian lighting was reduced from \$185.00 to \$140.00 per foot, through redesign and cost savings. The SAA proposed an assessment of \$105 per foot, which was 75% of the cost of the lighting, with the remaining 25% paid as a project cost shared equally between the City and UTA. The maintenance assessment was reduced to \$5.00 per foot by shifting most of the maintenance responsibilities for boulevard elements to the property owners. This SAA proposed a \$3.00 per front foot assessment for the irrigation system in all park strips and median islands. The SAA established an estimated \$2.00 per foot cost for maintenance of the street and pedestrian lighting system. The capital cost for the installation of these items is included in the project budget.

One June 1, 2010 the Administration transmitted the designation resolution of this revised North Temple Boulevard SAA Nos. LC-109017 and M-109018 to the City Council. On June 15, 2010 the City Council adopted the resolution to designate the Notice of Intent and gave approval for the process to proceed. The Council set a public hearing for July 13, 2010 to hear comments and concerns about the SAA. The resolution established the protest period and required protest be received by 5:00 P.M. on July 13, 2010.

The resolution was properly advertised and copies of the "Notice of Intention" and supporting information mailed to all affected property owners on North Temple. Considerable effort was made by City staff, the City's Downtown Construction Ombudsman, concerned residents, and property owners supporting the SAA, to review the proposal with other owners. In the same fashion as the first North Temple SAA, the owners submitted written protests in excess of 50%. The total protest for SAA LC-109017 and M-109018 was 64%, with a large percentage of those coming from properties between Redwood Road and 2400 West. The protest rate for properties in this area was 89%. The protest rate for properties between 600 West and Redwood Road was 41%.

As before, this same property owner compiled the protest letters from different owners and submitted them to the City on the last day of the protest period. Only three written protests were mailed to the City from owners not included within this group. Concern was raised about the authenticity of these compiled letters because they did not contain original signatures, were not dated, and appeared to be copies of the same letter submitted in the original North Temple SAA. After reviewing the protest letters and a sampling of the protesting property owners, it was determined the letters did reflect the desires of those owners protesting the latest proposed SAA.

State statute and the SAA's "Notice of Intention" allowed the City to modify the proposed assessment area and designate the SAA in specific areas where the protest does not exceed 50%. At 41%, the area between 600 West and Redwood Road meets this requirement, and it is recommended the SAA be created and the boulevard elements installed in this area. This would, in part, attempt to accomplish what the City has

envisioned for North Temple. As uses change and properties redevelop west of Redwood Road, the urban enhancement can be installed at the property owners' cost.

LESSONS LEARNED:

The Airport Light Rail and North Temple improvement is a large and complicated project. The addition of the viaduct replacement and desire to add the boulevard elements has made the project even more complex. Being able to fund these improvements has been challenging, especially with the Special Assessment process. Mistakes have been made and lessons learned, both in the City's process and dealing with the public. The following are areas that caused concerns and should be evaluated when the City uses SAAs in the future:

- Accurately define the scope and anticipated property owner participation in the project. Define costs and estimated assessments before proceeding with the process.
- Meet with a sampling of the property owners before starting to determine if there is support. Without support, the process is too time consuming for staff and too expensive for the City to continue.
- Establish a procedure and checklist so the different elements and schedule requirements of the process are met, to eliminate errors.
- Once the SAA process has started, it should continue on until the property owners have determined if they wish to participate. Stopping and restarting the process does not necessarily guarantee the outcome.
- Provide as much information to the property owners as possible to help eliminate confusion and false information about the assessment and process.
- Define a procedure and process for the property owners to submit an actual written protest to eliminate the confusion that resulted from the individual representing the owners on North Temple.

PUBLIC PROCESS:

Information concerning the SAA was presented at the North Temple Citizen Advisory Committee monthly meeting. An informal meeting was held on July 7, 2010 at the City Engineer's Office and formal public hearing before the City Council on July 15, 2010.

Attached is the resolution to designate the North Temple Boulevard SAA Nos. LC109017 and M-109018, a map of the proposed assessment area showing properties protesting the SAA and the cost and funding sources spreadsheet for the project.

Salt Lake City, Utah

September 7, 2010

A regular meeting of the City Council of Salt Lake City, Utah, was held on Tuesday, September 7, 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 roll call the following members who constituted a quorum:

| | |
|---------------------|---------------|
| JT Martin | Chair |
| Jill Remington-Love | Vice Chair |
| Søren 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:

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

_____ reported to the City Council that, pursuant to published notice concerning the intent of the City to designate the Salt Lake City, Utah North Temple Boulevard Assessment Area No. LC-109017 and No. M-109018 (the "North Temple Boulevard Assessment Area"), the City Council held a public hearing on July 13, 2010, at which interested persons were heard concerning comments or protests relating to the North Temple Boulevard Assessment Area. The City also received and reviewed written protests submitted to the City.

After considering all protests received, the City Council determined to revise the proposed North Temple Boulevard Assessment Area to delete certain properties within said Assessment Area and thereby eliminate certain improvements to be constructed therein as described in the Notice of Intention to Designate Assessment Area adopted on June 15, 2010 (the "Original Notice of Intention"). The amendments and revisions to the Original Notice of Intention are set forth in Exhibit A attached hereto and incorporated herein.

The City Council then concluded that the public interest will best be served by designating the North Temple Boulevard Assessment Area as herein revised.

Councilmember _____ then moved and Councilmember _____ seconded the adoption of the following resolution. The resolution was adopted by the following vote:

AYE:

NAY:

RESOLUTION NO. ____ OF 2010

A resolution designating an assessment area to be known as the Salt Lake City, Utah North Temple Boulevard Assessment Area No. LC-109017 and No. M-109018 (the “North Temple Boulevard Assessment Area”) as described in the Notice of Intention to Designate Assessment Area adopted on June 15, 2010, as amended; authorizing the City officials to proceed with the acquisition and construction of the improvements and the levying of assessments to finance a portion of the costs of said improvements as well as certain operation and maintenance expenses, all as described in said Notice of Intention, as amended; and related matters.

BE IT RESOLVED BY THE City Council (the “Council”) of Salt Lake City, Utah, as follows:

WHEREAS, pursuant to the Assessment Area Act, Title 11, Chapter 42, Utah Code Annotated 1953, as amended (the “Act”), on June 15, 2010, the Council adopted a Notice of Intention to Designate Assessment Area (the “Original Notice of Intention”) to be known as the “Salt Lake City, Utah Special Assessment Area (North Temple Boulevard Assessment Area No. LC-109017 and No. M-109018) (the “North Temple Boulevard Assessment Area”), and after giving notice as required by the Act, held a public hearing on July 13, 2010, at which interested persons were given an opportunity to provide comments or protests relating to said Assessment Area; and

WHEREAS, after considering all written protests received by the Council as well as public comments at the public hearing, the Council has determined to amend the Original Notice of Intention to revise the description of said Assessment Area and to eliminate certain improvements described in the Original Notice of Intention; and

WHEREAS, after eliminating all protests relating to property that will be deleted from the North Temple Boulevard Assessment Area, the City Council has determined that property owners representing less than fifty percent (50%) of the total front footage of property to be assessed have submitted written protests to the City protesting the designation of the Assessment Area, the inclusion of the property owner’s property within the Assessment Area, and/or the Improvements proposed to be acquired or constructed; and

WHEREAS, pursuant to Section 11-42-206 of the Act, and consistent with the Original Notice of Intention, as amended, the Council now desires to designate the Assessment Area.

BE IT RESOLVED by the City Council of Salt Lake City, Utah, as follows:

Section 1. The Council has determined that it will be in the best interest of Salt Lake City (the “City”) to finance the costs of certain improvements consisting of the costs of reconstruction of the roadway pavement, and the construction and installation of the Jordan River bridge, curbs, multi-purpose walkways, driveway approaches, walkway

access ramps, bicycle and pedestrian paths, pedestrian crosswalks, decorative walkway pavements and treatments, street corner treatments, park strip landscaping, irrigation systems, landscaped median islands, site acquisitions, storm drainage facilities, street and pedestrian lighting system, traffic signals and public art in conjunction with the Utah Transit Authority and City downtown to Airport light rail line project, together with all other miscellaneous work necessary to complete said improvements in a proper and workmanlike manner (collectively, the “Improvements”) according to plans on file in the Office of the City Engineer in Salt Lake City, Utah, and to pay certain operation and maintenance costs with respect to street and pedestrian lighting and an irrigation system for the North Temple Boulevard park and median island, including electrical costs and water service costs.

Section 2. The Improvements and operation and maintenance expenses described in the Original Notice of Intention as modified by the amendments and revisions described in Exhibit A attached hereto are hereby authorized and the North Temple Boulevard Assessment Area as described in the Original Notice of Intention as modified by the amendments and revisions described in Exhibit A attached hereto is hereby designated to acquire and construct said Improvements, to pay certain operation and maintenance costs incurred by the City and to levy assessments to finance the costs of the Improvements and said operation and maintenance costs.

Section 3. The legal description and tax identification numbers of the properties to be assessed within the Assessment Area are more fully set forth in Exhibit B attached hereto. Assessments to finance the costs of the Improvements and to pay certain operation and maintenance costs will be levied based upon the front footage of the properties to be assessed within the Assessment Area.

Section 4. As required by law, the City Recorder is hereby authorized and directed to file in the Salt Lake County Recorder’s office within fifteen (15) days from the date hereof (a) a copy of the Notice of Intention, as amended, and an original or certified copy of this Resolution designating the North Temple Boulevard Assessment Area, and (b) a Notice of Encumbrance and Assessment Area Designation in substantially the form of Exhibit C hereof which states that the Council has designated said Assessment Area and which lists the properties proposed to be assessed, described by tax identification number and legal description.

ADOPTED AND APPROVED this September 7, 2010.

(SEAL)

By: _____
Chair

ATTEST:

By: _____
Deputy City Recorder

PRESENTATION TO THE MAYOR

The foregoing resolution was presented to the Mayor for his approval or disapproval this _____, 2010.

By: _____
Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing resolution is hereby approved this _____, 2010.

By: _____
Mayor

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

I, _____, the duly appointed, qualified, and acting City Recorder of Salt Lake City, Utah, do hereby certify that the foregoing is a full, true, and correct copy of the minutes of a regular meeting of the City Council of Salt Lake City held in the City Council Chambers in Salt Lake City on Tuesday, September 7, 2010, at the hour of 7:00 p.m., as recorded in the regular official book of minutes as kept in my official office, that said proceedings were duly had and taken as therein shown, and that all the members were given due, legal, and timely notice of said meeting as therein shown.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of Salt Lake City this September 7, 2010.

(SEAL)

By: _____
City Recorder

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, _____, the undersigned City Recorder of Salt Lake City, Utah (the "Issuer"), do hereby certify, according to the records of the City Council of Salt Lake 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 September 7, 2010, public meeting held by the City Council as follows:

(a) By causing a Notice, in the form attached hereto as Schedule 1, to be posted at the principal offices at the City and County Building, Salt Lake City, Utah, on September 3, 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 1, to be delivered to the Deseret News on September 3, 2010, at least twenty-four (24) hours prior to the convening of the meeting.

(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 September 7, 2010.

(SEAL)

By: _____
City Recorder

SCHEDULE 1

NOTICE OF MEETING

SCHEDULE 2

2010 ANNUAL MEETING SCHEDULE

EXHIBIT A

AMENDMENTS AND REVISIONS TO ORIGINAL NOTICE OF INTENTION APPROVED BY THE CITY COUNCIL ON SEPTEMBER 7, 2010

Because certain properties will be deleted from the North Temple Boulevard Assessment Area and will therefore not be improved, the following sections of the Original Notice of Intention are hereby amended to read as follows:

DESCRIPTION OF ASSESSMENT AREA

All properties fronting North Temple Street (1) from 500 West to 600 West, (2) from Redwood Road to I-215 (1980 West), and (3) from I-215 to 2400 West are deleted from the North Temple Boulevard Assessment Area. The revised North Temple Boulevard Assessment Area shall include the following properties fronting North Temple Street:

From 600 West to I-15:

North Side:

Beginning at the west right of way line of 600 West thence west to the east right of way line of I-15.

South Side:

Beginning at the west right of way line of 600 West thence west to the east right of way line of I-15.

From I-15 to 800 West:

North Side:

Beginning at the west right of way line of 700 West thence west to the east right of way line of 800 West.

South Side:

Beginning at the west right of way line of I-15 thence west to the east right of way line of 800 West.

From 800 West to 900 West:

North Side:

Beginning at the west right of way line of 800 West thence west to the east right of way line of 900 West.

South Side:

Beginning at the west right of way line of 800 West thence west to the east right of way line of 900 West.

From 900 West to 1000 West:

North Side:

Beginning at the west right of way line of 900 West thence west to the east right of way line of 1000 West.

South Side:

Beginning at the west right of way line of 900 West thence west to the east right of way line of Chicago Street, then

Beginning at the west right of way line of Chicago Street thence west to the east right of way line of 1000 West.

From 1000 West to the Jordan River:

North Side:

Beginning at the west right of way line of 1000 West thence west to the east boundary line of the Jordan River.

South Side:

Beginning at the west right of way line of 1000 West thence west to the east boundary line of the Jordan River.

From the Jordan River to Redwood Road.

North Side:

Beginning at the west boundary line of the Jordan River thence west to the east right of way line of 1460 West Street, then

Beginning at the west right of way line of 1460 West thence west to the east right of way line of Cornell Street, then

Beginning at the west right of way line of Cornell Street thence west to the east right of way line of Redwood Road.

South Side:

Beginning at the west boundary line of the Jordan River thence west to east right of way line of Redwood Road.

PROPOSED IMPROVEMENTS AND LOCATION

The proposed Improvements consist of the reconstruction of the roadway pavement, and the construction and installation of the Jordan River Bridge, concrete curbs, multi-purpose walkways, driveway approaches, walkway access ramps, bicycle and pedestrian paths, enhanced pedestrian crosswalks, decorative walkway pavements and treatments, street corner treatments, park strip landscaping, irrigation systems, landscaped median islands, site furnishings, storm drainage facilities, street and pedestrian lighting system, traffic signals and public art in conjunction with the Utah Transit Authority and City downtown to Airport light rail line project, and related improvements together with all other miscellaneous work necessary to complete said improvements in a proper and workmanlike manner (collectively, the “Improvements”). The Improvements are generally located on North Temple Street from 600 West Street to Redwood Road.

PROPOSED ASSESSMENTS, ESTIMATED COST OF IMPROVEMENTS, AND METHOD OF ASSESSMENT

Pursuant to the Act, the Council has determined to levy assessments to pay a portion of the cost of the Improvements (the “Capital Assessments”) and to pay certain operation and maintenance costs with respect to the street and pedestrian lighting system from 600 West to Redwood Road, and an irrigation system for the North Temple Boulevard park strip and median island, within the public right of way from 600 West to Redwood Road (the “O&M Assessments”).

The total cost of the Improvements including overhead costs is estimated to be \$24,173,100, approximately \$22,991,300 of which will be paid by the City and by other funding sources, including approximately \$12,605,100 in City Funds, \$10,000,000 of Airport Light Rail Alliance Funds, and approximately \$386,200 of State of Utah Funds. The remaining estimated \$1,181,800 will be paid by the Assessments to be levied against the properties that may be directly or indirectly benefited by such Improvements, which benefits need not actually increase the fair market value of the properties to be assessed.

The Council intends to levy O&M Assessments, as provided in the Act, on those properties within the North Temple Boulevard Assessment Area to be benefited by the maintenance of portions of the Improvements to pay certain operation and maintenance costs incurred by the City within the North Temple Boulevard Assessment Area. The initial estimated aggregate annual O&M Assessment is \$52,885 for the first year. Each subsequent annual O&M Assessment shall be determined as follows: actual O&M costs for the prior year, less any surplus or plus any deficits for the prior year, plus a cost of living adjustment, plus any extraordinary O&M costs to be incurred for the coming year. The Council will adjust each annual O&M Assessment annually to reflect the current operation and maintenance costs anticipated to be incurred by the City using the determination method described above, and will adopt a new assessment ordinance levying each annual assessment.

All properties described under DESCRIPTION OF ASSESSMENT AREA above, will be assessed a Capital Assessment as follows:

CAPITAL ASSESSMENTS

| <u>Improvements</u> | <u>Estimated Assessment</u> | <u>Method of Assessment</u> |
|----------------------------------|-----------------------------|-----------------------------|
| All above described Improvements | \$105 | Per front foot |

All properties described under DESCRIPTION OF ASSESSMENT AREA above will be assessed a Rate 1 O&M Assessment as follows:

RATE 1 O&M ASSESSMENTS

| <u>Rate</u> | <u>Improvements</u> | <u>Estimated Annual Assessment</u> | <u>Method of Assessment</u> |
|-------------|---|------------------------------------|-----------------------------|
| 1 | Operation and maintenance costs of the North Temple street and pedestrian lighting system including general maintenance, light pole and fixture replacements, and electrical power costs. | \$2.00 | Per front foot |

RATE 2 O&M ASSESSMENTS

The following properties fronting North Temple Street from 600 West to Redwood Road will also be assessed the Rate 2 O&M Assessment as follows:

| <u>Rate</u> | <u>Improvements</u> | <u>Estimated Annual Assessment</u> | <u>Method of Assessment</u> |
|-------------|---|------------------------------------|-----------------------------|
| 2 | Operation, repair, and replacement of an irrigation water system for the North Temple Boulevard park strip and median island. | \$3.00 | Per front foot |

All other provisions of the Original Notice of Intention shall remain unchanged.

EXHIBIT B

TAX IDENTIFICATION NUMBERS AND LEGAL
DESCRIPTIONS OF PROPERTIES TO BE ASSESSED

(A complete list of Tax I.D. numbers and property descriptions is available for inspection
at the Salt Lake City Recorder's Office and the City Engineer's Office.)

EXHIBIT C

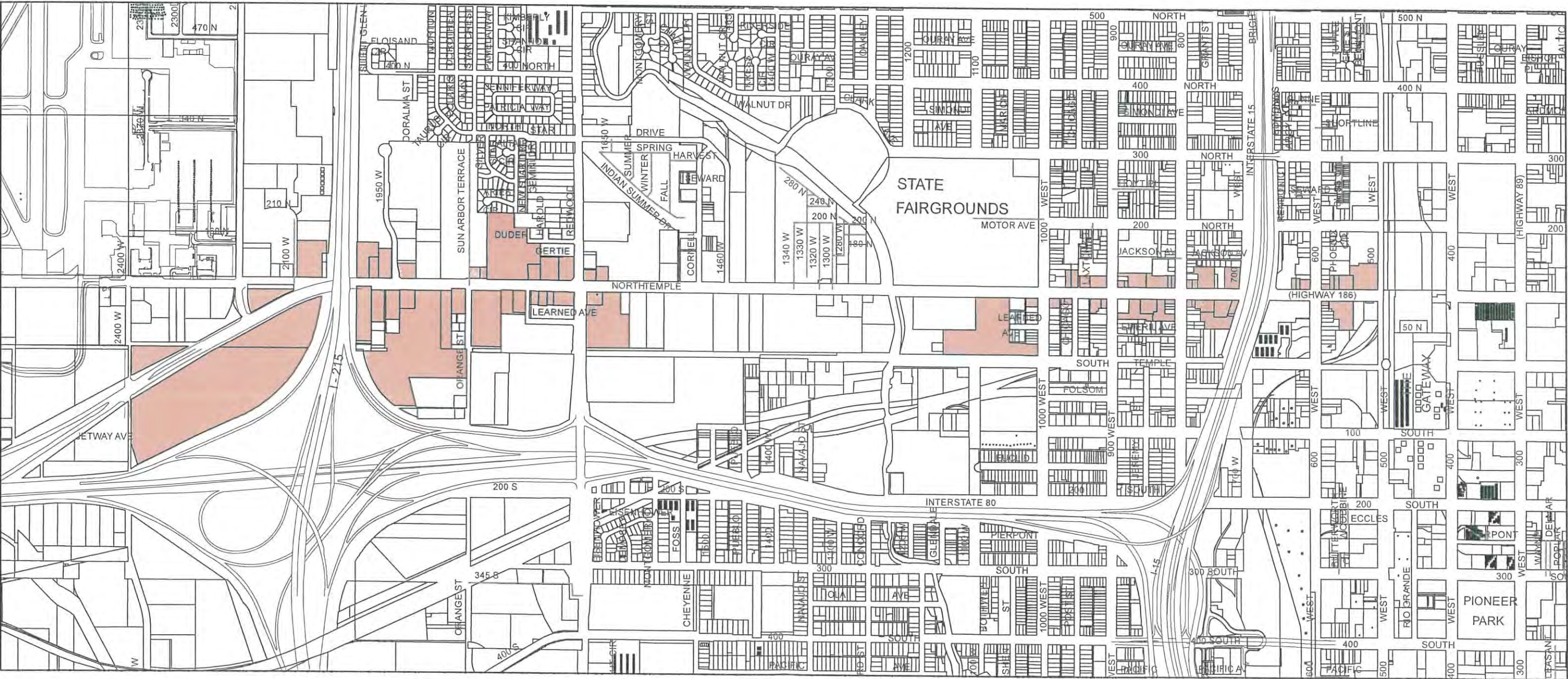
NOTICE OF ENCUMBRANCE AND ASSESSMENT AREA DESIGNATION

EXHIBIT D

PUBLIC HEARING MINUTES

North Temple Boulevard
Special Assessment Area
Protests

4



Legend

- PROTEST PARCELS
- PARCELS