

REQUEST FOR COUNCIL ACTION

SUBJECT:

Resolution of Intent to Designate the Stone Creek Assessment Area, which will trigger the mailing of a Notice to property owners.

SUMMARY:

Following many public meetings and citizen input, the staff proposes the designation and implementation of an assessment area covering the Stone Creek development. This resolution of intent is the first step in that process.

FISCAL IMPACT:

This Assessment Area will provide funds to support and improve the ongoing maintenance of open space public improvements within the Stone Creek Master Development Area.

STAFF RECOMMENDATION:

Staff recommends moving forward with the Resolution of Intent to Designate and Establish the Stone Creek Assessment Area.

MOTION RECOMMENDED:

I move that the City Council approve Resolution 14--41 expressing intent to designate and establish the Stone Creek Assessment Area and authorizing the mailing of notice to affected property owners.

Roll Call Vote required.

Reviewed by:



Robert Thorup
Deputy City Attorney

Proposed/Recommended by:



Richard Davis
City Manager

Designating the Stone Creek Assessment Area

The Stone Creek development area contains approximately twice as much park acreage *per capita* and approximately four times the open space acreage *per capita* than the “normal” City neighborhood. This means that if Stone Creek gets only the same attention given by parks maintenance personnel and budget to the City generally, Stone Creek residents arguably get 50% less park maintenance and 66 2/3% less open space maintenance. The assessment area concept provides funding for improvement of these maintenance levels in Stone Creek.

Because the Stone Creek area is substantially developed, an assessment levy will also need to be approved and levied from the start, if the Council ultimately decides to designate and establish the Stone Creek assessment area (decision now scheduled for early May 2014). The City has committed to provide 20% of the maintenance budget for the Assessment Area to assure that property owners in Stone Creek get the benefits of City-wide park maintenance assured generally through the payment of property taxes.

There is a political stress point where the level of maintenance intersects with the cost to be assessed to the average home owner. Over the past two years of discussions with the property owners in the Stone Creek area, a monthly assessment in the area of \$4.00-\$7.00 has gained the greatest political support. Within this constraint is the moving target of what can be achieved in the way of increased maintenance. Reasonable minds can differ as to what can be accomplished. We have now settled on a \$73,900 first year budget and a \$6.66 monthly residential assessment. The current City maintenance efforts at Stone Creek, begun only last year, are achieved through three third party contracts totaling approximately \$38,000. This means that the assessment area will provide an additional approximately \$35,900 of maintenance dollars. Ultimately it will be up to the City Manager just how to implement the purpose of the assessment area and how to squeeze the greatest bang for the buck.

In any year, the actual costs of the assessment area may exceed, or be less than, the budget used to set and levy assessments. The City may need to cover budget overages, and can be reimbursed through budget underages. Moreover, because maintenance work is seasonal, and the assessment levy is collected all year long, there may be periods of time in which the City will advance costs and services that will be paid back as assessments are collected. The City Council can revisit the assessment levy periodically to adjust the levy as needed for changes in costs and the addition of new open space, residences and commercial space in the area.

The Resolution of Intent will trigger the mailing and publication of a Notice of Intent to Designate Assessment Area. This Notice provides material information about the Assessment Area to the property owners in the Stone Creek area, and enables them to file a written protest if they desire. The Notice provides a 60-day period within which a property owner can submit a written protest. If 50% or more of the property owners protest, the City may not proceed with the Assessment Area. There is no

assurance, however, that even with a lower protest levels the City Council will agree to take the final step and approve the Assessment Area and levy the assessment for 2014.

Raising Funds to Complete Certain Public Improvements

While not a legal part of the Assessment Area process, there is an important political condition to the City's willingness to move forward with the Stone Creek Assessment Area.

Over 10 years ago the residents of Stone Creek were promised a high level of public improvements, with maintenance through a Special Service District. The developer failed to provide the promised public improvements and the Special Service District was never finally implemented by the City. Over the years these failures have festered in this community into a major lack of trust. In meetings with this community, it became clear that there was only limited resistance to the concept of an Assessment Area, given a similar structure was promised from the beginning. The great resistance was to proceeding with an Assessment Area without the completion of at least a significant amount of the missing open space improvements.

Through creative thinking by the city staff, a concept was developed whereby certain open space land now owned by the City in Stone Creek would be platted and developed by the City into building lots. Through the sale of these lots, the City would develop funding needed to construct and complete many lacking public improvements within Stone Creek. In meeting with citizen committees, it was this willingness by the city staff to pursue construction of missing public improvements that developed a trust in the Assessment Area process.

As a practical matter, the Assessment Area needs to be established now, ahead of the development and sale of the residential lots by the City, in order to improve maintenance within the existing Stone Creek open space areas without waiting for the longer time line of the development process. If the City Council is not interested in a Stone Creek Assessment Area, then the City will not waste the resources to develop and sell residential lots. The converse is also true: if the City Council is not amenable to taking City open space land and using the proceeds from the sale of that land to construct open space improvements promised but never delivered to the residents of Stone Creek, then there is no political gain to be had by establishing an Assessment Area.

THE CITY OF WEST JORDAN, UTAH
A Municipal Corporation

RESOLUTION NO. 14- 41

A RESOLUTION Expressing the Intent to Designate an Assessment Area Encompassing The Stone Creek Master Development Area; Approving a Notice to be Mailed and Published; and authorizing the City Clerk to Supervise the Mailing and Publication of such Notice, to receive and account for Protests, and to schedule a public hearing for an Ordinance Designating Assessment Area following the Protest Period.

Whereas, the City has studied the public improvement needs in the proposed assessment area and has concluded to proceed only with an Assessment Area for The Stone Creek master planned area at this time;

Whereas, Title 11, Chapter 42 of the Utah Code authorizes the City to establish an assessment area, under certain requirements, for the purpose of maintaining public improvements;

Whereas, a survey and examination of boundary has been completed and the boundaries of the proposed assessment area are known;

Whereas, the anticipated monthly assessment charge to residents of the proposed assessment appear fair and reasonable,

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH:

Section 1. The City presently intends to designate and establish an assessment area under Title 11, Chapter 42 of the Utah Code encompassing the master development area known as Stone Creek.

Section 2. The City Council has reviewed and hereby approves the form of Notice attached to this Resolution and hereby incorporated herein by this reference.

Section 3. The Notice shall hereafter be published as required in Title 11, Chapter 42 of the Utah Code, for three successive weeks and a copy shall be mailed, first class postage prepaid, to every property owner within the boundaries of the proposed assessment area.

Section 4. The City Clerk is hereby authorized and directed to supervise the publication of the Notice and the mailing of the Notice to property owners within the proposed assessment area.

Section 5. The City Clerk is hereby authorized and directed to receive and account for any and all protests filed with the City in response to the Notice. Such protests shall be reviewed to assure that each such protest is signed, and the protest clearly represents the protest of a valid property owner within the proposed assessment area.

Section 6. If, within the time provided in the Notice, owners of 50% or less of the Equivalent Residential Units (ERU) in the proposed assessment area have timely and effectively protested, the City Clerk is hereby authorized and directed to supervise the preparation of an Ordinance establishing the Stone Creek assessment area, and scheduling a public hearing for the purpose of taking public comment on the proposed Ordinance.

Adopted by the City Council of West Jordan, Utah this 26th day of February, 2014.

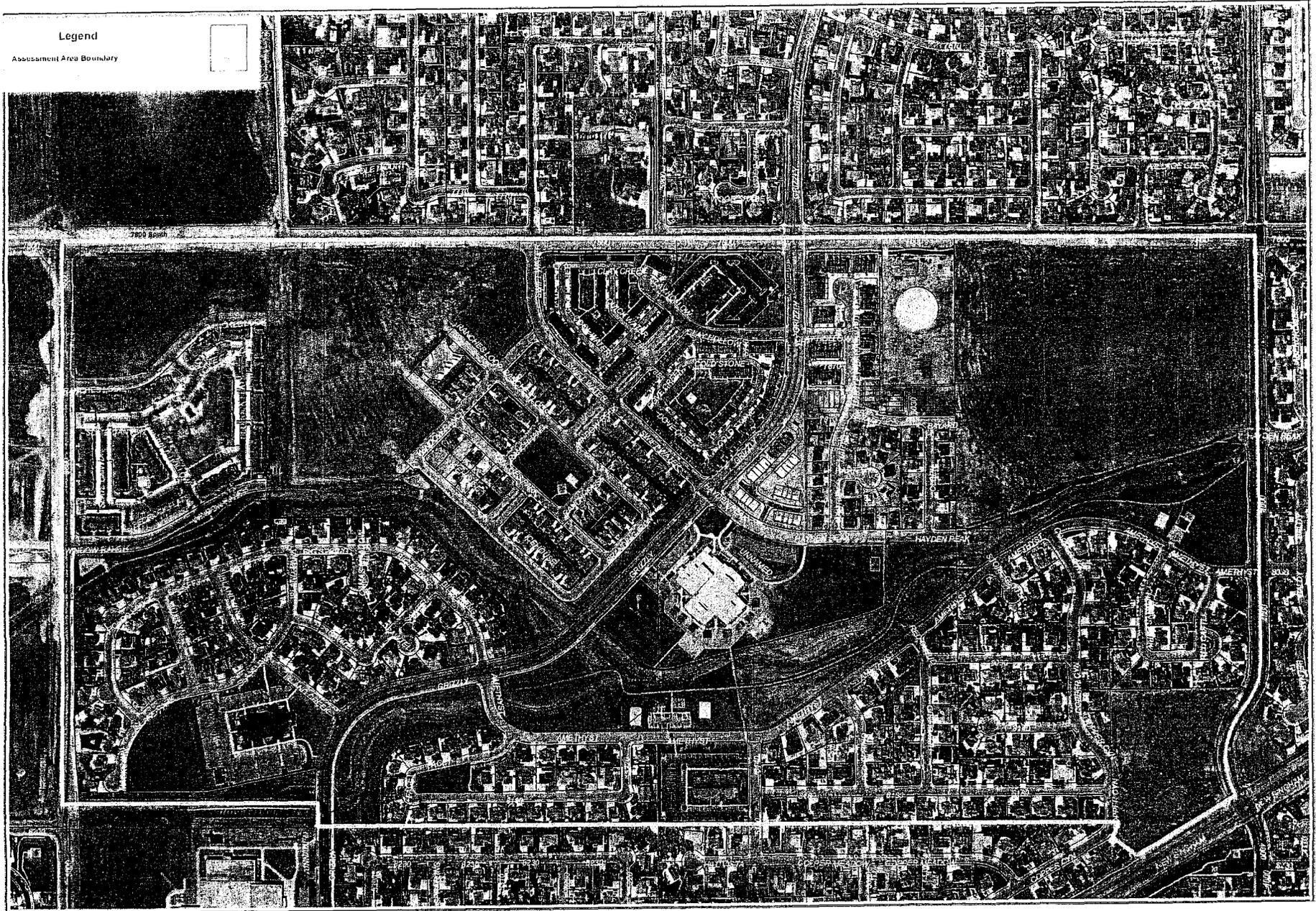
CITY OF WEST JORDAN

ATTEST:

By: _____
Mayor Kim V. Rolfe

Melanie Briggs, City Clerk / Recorder

Voting by the City Council	"AYE"	"NAY"
Judy Hansen	-----	-----
Jeff Haaga	-----	-----
Chris McConnehey	-----	-----
Chad Nichols	-----	-----
Ben Southworth	-----	-----
Justin D. Stoker	-----	-----
Mayor Kim V. Rolfe	-----	-----

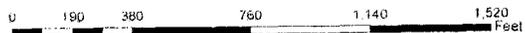


Legend

Assessment Area Boundary

Stone Creek Assessment Area Boundary

City of West Jordan
Planning Division





NOTICE OF INTENT TO CREATE THE STONE CREEK ASSESSMENT AREA

The City of West Jordan (the “City”) proposes to designate and create an assessment area encompassing the land area within the City commonly known as the Stone Creek development area. The purpose of the proposed assessment area is to provide augmented funding for the ongoing maintenance of parks, entry monuments, and other open space within the assessment area.

The Stone Creek development area has twice the park acreage *per capita* and 4 times the open space acreage *per capita* than a typical West Jordan neighborhood.

Intent to Designate

On February 26, 2014 the West Jordan City Council adopted a resolution of intent to designate and create an assessment area encompassing the Stone Creek development area. This action begins the legal process for designating the assessment area.

Area Within Proposed Assessment Area

The land area within the proposed assessment area is the entirety of the land area within the City commonly known as the “Stone Creek” development area (the “Assessment Area”). A map showing the boundaries of the proposed Assessment Area is attached to this Notice as Exhibit A, and is incorporated herein by this reference. This map may also be seen on the City website at the following web address: <http://www.wjordan.com/Maps.aspx>

Purpose of the Proposed Assessment Area

The proposed Assessment Area is intended to provide the financial resources for the ongoing maintenance of all of the dedicated open space, such as parks, and collector and arterial park strips within the Assessment Area, including the costs of removal or covering of



graffiti that may exist from time to time along collector and arterial streets within the Assessment Area (collectively, the “Improvements”). Also the trails within the Assessment Area will be cleared of snow, a service not provided to trails elsewhere in the City.

Intended Actions within the Assessment Area

During 2012 and 2013, the City held community meetings within the proposed Assessment Area to seek input of the current residents as to the level of ongoing maintenance desired. After considering the comments of property owners at these community meetings, the City has determined a level of service for the Assessment Area roughly equal to that experienced in a typical neighborhood elsewhere in the City, but covering twice the park space and four times the open space than the typical neighborhood.

With the City devoting just the level of resources and time to the open space in the Assessment Area that it devotes to other parts of the City, the Assessment Area currently suffers, arguably, a 50% reduction in maintenance of parks and a 75% reduction in maintenance of open space. The Assessment Area’s purpose is to provide the funding to bring the level of maintenance within the Assessment Area up to City standards generally.

Related to, but not legally connected with, the decision to designate and implement the Assessment Area, is the City’s decision to take certain open space property now owned by the City within the Assessment Area, develop that property into residential lots, sell those lots to residential builders, and to use the net proceeds of that land sale to implement open space improvements within the Assessment Area. The specific improvements intended by the City are depicted in **Exhibit B** attached to this Notice and incorporated by this reference. If and when these improvements are completed, the Assessment Area would then provide funding to maintain these new, and existing, improvements.



The City, itself, may perform the completion and maintenance of Improvements within the Assessment Area; or the City may contract with one or more third party entities to perform these services. Any use of private contractors will comply with government procurement requirements.

Trees within the Assessment Area will be managed through the City's Urban Forestry program. The City is exploring ways outside of the Assessment Area concept to obtain additional funding to support its Urban Forestry program. There is no assurance that such additional funding will be found.

Trails within the Assessment area will be managed and maintained through the City's trails program. The City is exploring ways outside of the Assessment Area concept to obtain additional funding to support its trails program. There is no assurance that such additional funding will be found

While the land area within the Assessment Area is largely built out, when compared with its neighboring Highlands development area, there are still substantial areas of land that are planned to include additional residential units, a significant area of commercial development, and additional areas of park and open space. As these areas are developed in the future, the additional residences and commercial properties will bear their fair share of the Assessment Area budget, thus having a reducing effect on current property owners. On the other hand as more parks and open space come on line, the costs of maintenance will have an increasing effect on the budget of the Assessment Area.

The City Will Pay 20% of the Costs of the Assessment Area.

Because the Improvements within the proposed Assessment Area can be accessed and used by all of the citizens of the City, and the property taxes paid by the property owners within the Assessment Area fund a certain level of general parks and open space maintenance, the City will pay from its general funds 20% of the total costs of the Assessment Area in each and every year. In other



words, the property owners within the Assessment Area will together be responsible for no more than 80% of the total costs of the Assessment Area in each and every year.

Assessments Will Be Levied on the Property Within the Assessment Area to Pay the Costs of Maintaining the Improvements.

In order to pay for the remaining 80% of the cost of maintaining the Improvements in the Assessment Area, as described above, the City will levy an assessment on substantially all of the property within the proposed Assessment Area (the "Assessments"). Assessment installments ("Assessment Installments") will be billed to property owners within the Assessment Area as part of their monthly City utility bills. In cases where property owners within the Assessment Area do not receive City utility bills, primarily owners of undeveloped land, the assessments will be billed annually as part of the County property tax collection.

Each year the City Council will review the amount of money necessary to maintain the Improvements in the Assessment Area. The City Council may make adjustments to the annual cash assessment, annually or more often, if a change is needed in the amount of money necessary to maintain the Improvements in such year.

Because the maintenance season for the Assessment Area has a limited duration, but with immediate demands at the start of the season, the City may advance funds to pay the costs of maintaining the Improvements in any year prior to the collection of the total cash assessments for such year. The City may then be reimbursed for any such advances from cash assessments collected in the Assessment Area.



What is an Equivalent Residential Unit (ERU)?

The total costs of the Assessment Area, after the City pays its 20% share, will be divided by the number of “equivalent residential units” (ERU) within the Assessment Area to determine the actual cash assessment levy for each property for the year. The property within the proposed Assessment Area is divided into equivalent residential units (ERUs) for purpose of pro-rating the yearly Assessment Installment and for purposes of protesting the Assessment Area (discussed later).

An ERU is:

- A single family residence, or
- A single residential condominium unit, or
- Each living unit in a duplex, tri-plex or four-plex, or
- Each commercial business, or, if the business occupies more than one quarter-acre of land, each quarter-acre of land occupied by a single commercial business, or
- Each living unit in an apartment building, or
- Each quarter-acre of undeveloped land.
- Land area measuring less than a quarter acre shall be rounded to the nearest whole quarter acre.

For example, the owner of each single family home, regardless of size, will be one ERU. The owner of each residential condominium unit will be one ERU. The owner of a rental duplex, tri-plex, four-plex or a larger apartment building will be assessed one ERU portion of a developed residential assessment levy for each residential unit in the building. Land underlying any commercial building will be assessed one ERU portion of a commercial property assessment levy for each separate business entity on such land, provided that if a single business entity occupies more than one quarter-acre of land, such property will be assessed as many ERU's that equals the quarter acres of land area occupied by that business. Finally, the owner of undeveloped land will be assessed one ERU portion of an undeveloped assessment levy for every quarter-acre of such land



within the Assessment Area. (Undeveloped land means land on which no development has yet taken place.)

Commercial land area comprised of less than a quarter-acre will be rounded to the nearest whole quarter-acre. For example, commercial land measuring 49/100 of a quarter-acre or less would be ignored if connected to one or more otherwise qualified ERUs. On the other hand, commercial land measuring 50/100 of a quarter-acre or more will be rounded up to another whole ERU.

Undeveloped land standing alone and measuring 49/100 or less of a quarter acre or less will be deemed to be one ERU.

Government-owned land and facilities (for example, the Mountain View Corridor owned and operated by the State of Utah), land and facilities owned by school districts and churches, and public utility-owned land and facilities will be exempt from assessment and levy.

Assessments will be Levied According to the Benefit to Each Type of Property

Developed residential property, including single family homes, residential condominiums, and apartments are the primary beneficiaries of the Improvements. Therefore, developed residential property will bear at least 92% of the total costs of maintenance of the Improvements each year (net of the portion of these costs to be paid by the City). This net amount is the “developed residential assessment levy” mentioned above. For this purpose, developed residential property includes property as to which all infra-structure is installed and subdivided lots are identified and ready to be built upon. If developed commercial properties pay their full 5% share of costs and if undeveloped properties pay their full 3% share of costs, then the developed residential properties will carry a 92% share. If no developed commercial properties or undeveloped properties exist at a given time, the cost share attributable to these properties would be shifted to the developed residential properties. For example, when the Assessment Area is completely built out, the commercial properties will carry 5% of the costs and the residential



properties will carry 95% of the costs, because there will be no more undeveloped property.

Developed commercial properties benefit less than developed residential properties from the Improvements, but they do benefit directly and indirectly. Therefore, developed commercial property will bear 5% of the total costs of maintenance of the Improvements each year (net of the portion of these costs to be paid by the City). This is the “developed commercial assessment levy” mentioned above. For this purpose, developed commercial property includes property as to which all infra-structure is installed and subdivided pads are identified and ready to be built upon.

Undeveloped property benefits significantly less than developed residential or commercial properties from the Improvements, but these properties do benefit importantly because the Improvements in the Assessment Area provide a valuable inducement and selling point for the owners of these properties. Therefore, undeveloped property will bear 3% of the total costs of maintenance of the Improvements each year (net of the portion of these costs to be paid by the City). This is the “undeveloped property assessment levy” mentioned above. Once undeveloped property is developed, it will become either developed commercial property or developed residential property, and will be assessed accordingly.

First Year Budget and Assessment Installment

The first year maintenance budget for Improvements and the Assessment Installments will not include one-time costs of creating and organizing the proposed Assessment Area (legal fees, mailing costs, etc., equaling \$8750), and these costs are not expected to be included in future budgets for the ongoing maintenance of the Improvements in the proposed Assessment Area. The City has decided to assume and pay these costs of organizing the Assessment Area.



The currently estimated total budget for the proposed Assessment Area for the twelve months June 1, 2014 through May 31, 2015 is \$73,900. After City assumes 20% of this budget, the net total subject to Assessment Levy is \$59,120.

This 2014 net budget for the Assessment Area will result in the following Assessment Installment levies for the same period of time:

- Annually for developed residential property \$57,346.40 (97% of the total net budget. This total is then divided by the **717 Residential ERUs** within the Assessment Area, resulting in an annual assessment per ERU of \$79.98. This annual assessment will be billed monthly, resulting in a **\$6.66 monthly charge on utility bills.**
- Monthly per ERU for developed commercial property: \$ 0 (there is currently no developed commercial property within the proposed Assessment Area.)
- Annually for undeveloped property: \$1,773.60 (3% of the total net budget) divided by 288 Undeveloped Property ERUs) to yield the **annual 2014 Assessment Levy to each Undeveloped Property ERU of \$6.16.** This amount will be added to property tax bills from the County.

Future Budgets and Assessments Could be Different

Prior to or at the end of the first 12 month period, the City Council expects to adopt a new budget for the Assessment Area to determine the Assessment Levy Installments during the 2015 and succeeding fiscal years. These future budgets and Assessment Levies may be higher or lower than that determined for 2014.

From time to time the City Council will examine the budget for the operation and maintenance of the Improvements in the Assessment Area, and will adjust the levy of annual Assessment Installments as needed to fully fund the approved level of operation and



maintenance of the Improvements, and to recognize any changes in the number of commercial properties and developed residential properties, as well as new additions to the parks and other open spaces.

Enforcement of Property Owners' Duty to Pay Assessments

The City will often have to advance the money to enable services to be rendered in the Assessment Area, relying on the receipt of assessment payments over time to reimburse the City. Thus, in a real sense, all of the other tax payers in the City are relying on the residents and businesses in the Assessment Area to timely pay their assessments.

As noted earlier, the assessments to support the activities of the Assessment Area will be billed as a utility service item on the utility bills sent out by the City for residential and commercial properties. City policy is to credit payments received from utility customers in a "waterfall" against each of the various utility service charges (e.g., street lights, then sewer, then storm-water, then garbage, then assessment area charges, then culinary water) with water service fees paid last. Thus a utility bill paid in full will cover all utility charges, including culinary water. However, a utility bill payment even \$1.00 short will mean that culinary water charges have not been paid in full, and State-authorized remedies for failure to pay water charges include shutting off culinary water.

Those properties whose assessment levy is not billed with utility services will be billed through the County property tax system. Unpaid assessments would become liens against the property, and could be pursued through normal collection efforts, including credit reporting, collection lawsuits and foreclosure.

Right to Protest the Proposed Assessment Area

Utah law provides every property owner within the proposed Assessment Area an opportunity to protest (a) the designation of the Assessment Area, (b) the inclusion of the owner's property in



the proposed Assessment Area, and/or (c) any other aspect of the proposed designation of the Assessment Area. A simple and short letter specifying your protest, identifying (by address or other identifying information) the property owned, and signed by the owner(s) of the property must be hand delivered or mailed first class postage pre-paid to:

City Clerk/Recorder
City of West Jordan
8000 South Redwood Road
West Jordan, Utah 84088

Protests postmarked or directly received prior to 5:00 PM on **April 30, 2014** will be counted. Protests postmarked or received after that time and date will not be counted.

If 50% or more of the total ERUs in the proposed Assessment Area timely protest, the City Council may not proceed to designate the Assessment Area. There is no assurance that the City Council will go forward to designate and implement the Assessment Area and the Assessment Levy even if less than 50% protest is received.

Final Hearing on the Proposed Assessment Area

If insufficient protests are timely submitted, the City Council will hold a special public hearing on **May 7, 2014** at 6:00 PM in the City Council meeting room at the West Jordan City Hall to discuss and receive public comment on the designation of the proposed Assessment Area. Regardless of whether a property owner within the proposed Assessment Area timely protested, each and every such property owner may participate in the public hearing and voice his or her opinion.

Right to Challenge the Designation of Assessment Area and /or the Initial Assessment Levy.

Any property owner within the Assessment Area may file a legal challenge to the designation of the Assessment Area or to the



assessment levy within 30 days of the City Council's final action designating the Assessment Area and approving the Levy of the first year Assessments. Such a legal challenge will be limited to any alleged failure of the City to comply with legal requirements in the designation of the Assessment Area or the levy of the Assessments.

In the future, any person may legally challenge in court any proposed new Assessment Levy in the Assessment Area, again within 30 days of the decision of the City Council approving the new assessment levy. However, the designation of the Assessment Area may not be challenged once the first 30-day challenge period following the act of designation passes.



Exhibit A

Description of the Proposed Assessment Area



Exhibit B

Planned Improvements to be Completed by the City Through Sale of New Residential Lots