

ORDINANCE NO. 5 of 2014

An ordinance (the “2014 Assessment Ordinance”) approving an assessment list and levying an annual assessment upon property in Salt Lake City, Utah Lighting District No. 3, known as L03 (the “District L03”); establishing the effective date of the 2014 Assessment Ordinance; providing for a procedure to contest an assessment; and related matters.

BE IT ORDAINED BY THE CITY COUNCIL (THE “COUNCIL”) OF SALT LAKE CITY (THE “CITY”), UTAH, AS FOLLOWS:

Section 1. Determination of Costs. The annual estimated operation and maintenance costs of District L03 to provide for current street lighting within District L03 have been determined.

Section 2. Approval of Assessment List; Findings. The Council confirms and approves the District L03 assessment list, a copy of which is attached hereto as Exhibit B and incorporated herein by reference (the “Assessment List”). The Assessment List has been adjusted to comport with the previous year’s operating experience for District L03 and it includes estimated operation and maintenance costs for the twelve-month period beginning July 1, 2013, and ending June 30, 2014 (the “O&M Period”). The Council has determined that the Assessment List is just and equitable; that each piece of property to be assessed within District L03 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 estimated operation and maintenance costs within District L03.

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 as adjusted.

The assessments hereby levied are for the purpose of paying the estimated operation and maintenance costs to provide street lighting and electrical energy for street lighting within District L03 for the O&M Period. It is hereby determined and established that the property being assessed will be specifically benefited to the full amount of the assessment hereby levied to cover said estimated operation and maintenance costs. All property benefited is within the boundaries of District L03. Unless future modifications revise the purposes and plans of District L03, future assessments will continue to be levied annually for the reasonable useful life of the facilities to be maintained by the assessment levy based upon applicable rates established by the energy contract with the City. Future non-energy costs of operation and maintenance relating to the providing of lighting benefits will also be a factor in determining future rates. The City Treasurer is hereby authorized and directed to notify property owners of this assessment and to collect assessments in accordance with the provisions of this 2014 Assessment Ordinance for the purposes herein provided.

Section 4. Operation and Maintenance Costs. As determined by the office of the City Engineer, the total estimated operation and maintenance costs for District L03 for the O&M Period are \$252,908 of which the City's portion is approximately \$63,227. The remaining \$189,681.00 is to be paid from assessments levied upon property within District L03 as set forth in the Assessment List.

Section 5. Method, Rate, and Payment of Assessment. The total assessment for District L03 is levied in accordance with the method set out in the Notice of Intention pertaining to District L03 adopted by the City Council on December 3, 1996. The applicable rate for each property was determined based on the operation and maintenance costs of providing street lighting services and furnishing electrical energy for street lighting purposes, together with other related factors, the totals of which are set out in the preceding Section. Future annual assessments may include adjustments to reflect changes in operation and maintenance costs and any balance or deficits resulting from the previous year's operations.

Assessments shall be payable on April 30, 2014 (the "Due Date"). Interest on assessments shall accrue only after passage of the Due Date as set out in the Special Assessment Notice to be mailed by the City Treasurer to property owners. The rate of interest accruing on any delinquent assessment shall be the rate allowed by Utah statute (the "Delinquent Rate"). The whole or any part of the assessment may be paid without interest on or prior to the Due Date.

Section 6. Default in Payment. An assessment payment shall be delinquent if it remains unpaid after the Due Date. Any delinquency shall constitute a default in the payment of the assessment. If an assessment payment is not paid when due, the City may file for recording a notice (the "Notice of Delinquency") with the Salt Lake County Recorder. The resulting recording fees for any filing and any release shall be added to the assessment together with accrued interest due and owing. In addition, costs of collection as determined by the City Treasurer or required by law may be charged and shall be paid on all delinquent amounts.

If the delinquency continues after the filing of the Notice of Delinquency, the City Treasurer may determine what additional enforcement action may be appropriate. Prior to commencement of such enforcement action, the City shall give an additional notice (the "Notice of Default"), in writing, of the default to the owner of the property in default. Notice of Default 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 City. The Notice of Default may provide for a period of thirty (30) days in which the owner shall pay the assessment balance then due and owing together with accrued interest at the Delinquent Rate plus recording costs and other costs as determined by the City Treasurer. The Notice of Default may also declare that after the thirty (30) day period the City may bring suit for the total amount due plus costs of the enforcement action remedy, or the City may elect to commence foreclosure proceedings in the manner provided for actions to foreclose mortgage liens or trust deeds. In the event the City elects to foreclose using trust deed procedures, a trustee shall be designated by the City to serve as a trust fund

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 election by the City to use or not to use a Notice of Delinquency and a Notice of Default shall have no effect on the perfecting of the lien resulting from a delinquency in the payment of any assessment after publication of this Assessment Ordinance. 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 judgment or, in the case of foreclosure action, the date of the foreclosure sale.

Section 7. 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 the unpaid assessment balance with interest at the Delinquent Rate, plus all approved or required costs, the owner shall then be restored to the right to pay installments in the same manner as if default had not occurred.

Section 8. Lien of Assessment. An assessment levied by this 2014 Assessment Ordinance or any unpaid portion of an earlier assessment, any interest accruing, and the costs of recording and collection shall constitute a lien against the property upon which the assessment is levied as of April 15, 2014, the effective date of this 2014 Assessment Ordinance (the "Effective Date"), or for any unpaid portion of an earlier assessment, as of the effective date of any earlier applicable assessment ordinance. Unless the assessment becomes delinquent, no notice of lien may be recorded and no release of lien will be recorded at the time of payment. When a delinquency occurs, a notice of lien setting out the assessment balance due may be incorporated into a Notice of Delinquency that will be recorded. The assessment lien based on this 2014 Assessment Ordinance, or on an earlier assessment ordinance, if the delinquency predates the effective date of this 2014 Assessment Ordinance, shall be superior to the lien of any trust deed, mortgage, mechanic's or materialman's lien, or other encumbrance and shall be equal to and on a parity with the lien for general property taxes. The lien shall continue until the assessment 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 or the issuance of a tax deed, an assignment of interest by the governing entity, or a sheriff's certificate of sale or deed.

Section 9. Contestability. No assessment shall be declared void or set aside in whole or in part in consequence of any error or irregularity which does not go to the equity or justice of the assessment or proceeding. Any party who has not waived his or her objections to the assessment 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 2014 Assessment 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 2014 Assessment Ordinance. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint which 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 thirty (30) day period provided in this section, the assessments levied in District L03 shall become incontestable as to all persons who have not commenced the action provided for in this section; and no suit to enjoin the levy, collection, or enforcement of the assessments, or in any other manner attacking or questioning the legality of the assessments may be instituted in this state, and no court shall have authority to inquire into these matters.

Section 10. Notice to Property Owners. The City Treasurer is hereby authorized and directed to give notice of assessment by mail to the property owners in District L03. Said notice shall, among other things, state the amount of the assessment and the date for payment. A copy of the form of notice of assessment is available for examination upon request at the office of the City Recorder.

Section 11. 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 2014 Assessment Ordinance.

Section 12. Repeal of Conflicting Provisions. All ordinances or parts thereof in conflict with this 2014 Assessment Ordinance are hereby repealed.

Section 13. Publication of Ordinance. Immediately after its adoption, this 2014 Assessment Ordinance shall be signed by the Mayor and City Recorder and shall be recorded in the ordinance book kept for that purpose. This 2014 Assessment Ordinance shall be published once in The Salt Lake Tribune, a newspaper published and having general circulation in the City, and shall take effect immediately upon its Effective Date.

Section 14. 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 5. Such Notice shall (a) state that the City has an assessment interest in the assessed property, (b) describe the property assessed by legal description and tax identification number, and (c) state the maximum number of years over which the assessment for operation and maintenance activities will be payable (which number may be included in an attached copy of the District L03 Assessment Ordinance).

