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E# 2592419 PG 1 OF 140
ERNEST D ROWLEY, WEBER COUNTY RECORDER
24-AUG-12 252 PM FEE \$1.00 DEP TDT
REC FOR: OGDEN CITY

ORDINANCE NO. 2012-43

AN ORDINANCE OF OGDEN CITY, UTAH, APPROVING THE BOARD OF EQUALIZATION'S REPORT AND PROVIDING FOR THE LEVY OF NEW ASSESSMENTS ON ALL DESIGNATED BUSINESS/COMMERCIAL PROPERTIES WITHIN THE OGDEN CITY, UTAH, CENTRAL BUSINESS IMPROVEMENT DISTRICT NO. 2; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE AS OF AUGUST 21, 2012.

WHEREAS, The Ogden City Council has determined that the City of Ogden has benefitted from the multiple economic promotion activities held in the downtown area and that said activities have benefitted the city as a whole in branding and promoting the assets and the offerings of the city to people who live outside city boundaries as well as to companies and other economic investment groups outside the local region and nationwide who are interested in bringing their business to the city; and

WHEREAS, the Ogden City Council has created the Ogden City, Utah, Central Business Improvement District No. 2, (the "District") as required by statute, and conducted all legally required Board of Equalization review hearings as specified in Utah Code Ann. 11-42-402 and 11-42-403 and that assessments on all business/commercial properties within the District should be levied in accordance with state law; and

WHEREAS, the Ogden City Board of Equalization and Review, after holding public hearings and making its findings, recommendations and decision as required by state law, has reported its findings, recommendations and decision to the city council and the city council has approved the board's findings, recommendations and decision;

The Council of Ogden City hereby ordains:

SECTION 1. History and Purpose:

A. Title 11, Chapter 42 of the Utah Code Ann. authorizes municipalities to create special assessment areas for "economic promotion activities".

B. the Ogden City Council has previously created a special improvement district within Ogden's downtown central business area in the past in order to promote

economic activities in downtown Ogden City. Ogden City passed an ordinance creating a new three year special assessment area, the District, in downtown Ogden on June 19, 2012.

C. It is the purpose and intent of this ordinance to now levy assessment against all business/commercial properties located within the boundaries of the District as designated on June 26, 2012.

SECTION 2. Approval of Report of Board of Equalization and of Assessment List: Findings:

The City Council (the "Council") of Ogden City, Weber County, Utah (the "City") hereby accepts and adopts the findings and recommendations of the Board of Equalization and Review as described in Exhibit B, attached and made part hereof by reference. Since the assessments are based upon the determination by Weber County of 2012 final property values (the "taxable value"), the council confirms and adopts the assessment roll for the District, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (the "Assessment List"). The council has determined that the Assessment List, as adjusted and equalized by the Board of Equalization for the District, is just and equitable, that each piece of property to be assessed within the District will be benefitted 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 economic promotion activities financed by the assessments.

SECTION 3. Levy of Assessments:

The council hereby levies a tax as an assessment upon the real property identified in the District to provide for economic promotion activities over a three year period. The assessments levied upon each parcel of property therein described shall be in the amount set forth in the Assessment List. The assessments hereby levied are for the purpose of paying the costs of economic promotion activities within Ogden City, Utah, Central Business Improvement District No. 2. Economic promotion activities means promotion and developmental activities such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area and developing and issuing publications on the downtown area designed to improve the economic well-being of the downtown area (the "Economic Promotion Activities"). The assessments are hereby levied and assessed upon each of the parcels of real property described in the Assessment List. The assessments are levied upon the parcels of land in the District at equal and uniform rates.

SECTION 4. Basis for Assessments:

The amount to be assessed does not exceed in the aggregate the sum of (a) the cost of three years of economic promotion activities to be financed by the District [at least seventy percent (70%) of the funds shall be spent on economic promotion activities] and (b) the cost to administer the District [no more than thirty percent (30%) of the total assessment shall be paid to the city to administer the District].

SECTION 5. Method:

The assessments within the District are levied in accordance with the 2012 final taxable property values determined by Weber County.

SECTION 6. Payment of Assessment:

The assessment tax may be paid in total within thirty (30) days after passage of this ordinance (the "Effective Date") or may be paid in three equal installments. The first of such three equal installments shall be paid within fifteen (15) days after passage of this ordinance and the additional two equal annual installments shall be paid within fifteen (15) days of the first and second annual anniversary of the Effective Date. All delayed installment payments not paid within fifteen (15) days of the annual anniversary of the Effective Date shall bear interest at eight percent (8%) per annum. Additional interest shall accrue and be paid on all amounts not paid when due and declared to be delinquent or accelerated and immediately due and payable at the rate of eight percent (8%) per annum (the "delinquent rate"). In addition to interest charges at the delinquent rate, costs of collection, including attorney's fees and court costs (the "collection costs"), as determined by the city treasurer or required by law shall be charged and paid on all amounts declared to be delinquent, the city may elect to bring an action to collect only the delinquent portion of the assessment plus interest at the delinquent rate and collection costs.

Upon any default, the city treasurer shall give notice, in writing, of the default to the owner of the property in default, as shown by the last available equalized assessment rolls. Notice shall be effective upon deposit of the notice in the U.S. mail, postage prepaid, and addressed to the owner as shown on the last equalized assessment rolls for the city or on the official ownership records of the city. The notice shall provide for a period of thirty (30) days in which the owner shall pay the installments then due and owing together with accrued interest 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 the 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 7. Remedy of Default:

The property owner may, at any time prior to the date of public foreclosure sale of the subject property to collect the delinquent assessment installments, remedy their default. This can be done by paying the full amount of all unpaid installments which are past due and delinquent with interest at the delinquent rate, plus all required collection costs. If that happens, the assessment of said owner pertaining to that specific property shall be restored as if the default had not occurred.

SECTION 8. Lien of Assessment:

An assessment or any part of 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 the ordinance. Said lien 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 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. Notice to Property Owners:

The city council verifies that all notice requirements pertaining to the adoption of this ordinance have been provided to all property owners as follows:

(1) **Payment Terms.** The notice mailed to each property owner stated the proposed amount assessed to their property and the terms of payment. Property owners were also notified that a copy of the form of notice of assessment will be available for examination upon request at the office of the city recorder.

(2) **Board of Equalization Hearings.** Each notice mailed to each property owner, as well as those notices posted in compliance with the creation of the special assessment area listed the times and dates of the Board of Equalization hearings as required by state law. This included the dates and times (i) posted in a newspaper of general circulation once a week for four consecutive weeks with the last notice being no

more than 20 but at least 5 days before the deadline for filing adequate protests by landowners; (ii) posted on the Utah Public Notice website for four (4) consecutive weeks continuously, prior to the deadline for filing adequate protests by landowners.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City, Utah, this 21st day of August, 2012.

Neil K. Gurner
CHAIR

ATTEST:

Lee Ann Peterson
CITY RECORDER - *Acting*



TRANSMITTED TO THE MAYOR ON: 8-22-12

MAYOR'S ACTION: Approved Vetoed

[Signature]
MAYOR

ATTEST:

Lee Ann Peterson
CITY RECORDER - *Acting*



POSTING DATE: August 24, 2012

EFFECTIVE DATE: August 21, 2012

APPROVED AS TO FORM: *BA* 16 Aug 12
Legal Date

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APN

LEGAL DESCRIPTION

OWNER

ASSESSED VALUE .001492

01-021-0049

PART OF LOT 6, BLOCK 25, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH; BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF 24TH STREET AND THE WEST LINE OF KISEL AVENUE (FORMERLY HUDSON AVENUE) 84 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 6, AND RUNNING THENCE SOUTH 100 FEET; THENCE WEST 22.5 FEET; THENCE NORTH 100 FEET TO THE SOUTH LINE OF 24TH STREET; THENCE EAST 22.6 FEET TO THE POINT OF BEGINNING. TOGETHER WITH ALL RIGHTS-OF-WAY, EASEMENT AND APPURTENANCES BELONGING OVER AND UPON THE FOLLOWING DESCRIBED TRACT OF LAND, TO-WIT: PART OF SAID LOTS 5 AND 6, BLOCK 25, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH; BEGINNING AT A POINT ON THE WEST LINE OF KISEL AVENUE (FORMERLY HUDSON AVENUE) 210 FEET WEST AND 165.17 FEET SOUTH FROM THE NORTHEAST CORNER OF SAID LOT 6; THENCE SOUTH 96 FEET 7.5 INCHES, MORE OR LESS, TO THE SOUTH LINE OF SAID LOT 5; THENCE WEST 120 FEET, MORE OR LESS, TO THE EAST LINE OF GRANT AVENUE; THENCE NORTH ALONG THE EAST LINE OF GRANT AVENUE 10 FEET; THENCE EAST 110 FEET, THENCE NORTH 99 FEET TO A POINT 135.5 FEET SOUTH OF THE NORTH LINE OF SAID LOT 6; THENCE EAST 5 FEET; THENCE NORTH 45 FEET; THENCE WEST 115 FEET TO THE EAST LINE OF GRANT AVENUE; THENCE NORTH 10 FEET; THENCE EAST 133 FEET, MORE OR LESS, TO A POINT 197.93 FEET WEST OF THE EAST LINE OF SAID LOT 6; THENCE SOUTH 10 FEET; THENCE WEST 8.5 FEET; THENCE SOUTH 55.09 FEET; THENCE WEST 3.57 FEET TO THE PLACE OF BEGINNING.

LOHMUELLER REH, LLC

\$261.78

01-021-0036

PART OF LOT 7, BLOCK 25, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH; MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 7, BLOCK AND PLAT AFORESAID, AND RUNNING THENCE SOUTH 101 FEET, THENCE WEST 122 FEET, THENCE NORTH 101 FEET, THENCE EAST 122 FEET TO THE PLACE OF BEGINNING. TOGETHER WITH A RIGHT-OF-WAY OVER THE FOLLOWING DESCRIBED TRACT OF LAND: BEGINNING AT A POINT 101 FEET SOUTH AND 122 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 7, BLOCK AND PLAT AFORESAID, AND RUNNING THENCE WEST 43 FEET, THENCE NORTH 12 FEET, THENCE EAST 43 FEET, THENCE SOUTH 12 FEET TO THE PLACE OF BEGINNING.

ANDROMEDA HOSPITALITY GROUP INC

\$4,151.84

01-021-0067

PART OF LOT 8, BLOCK 25, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH; BEGINNING ON THE EAST LINE OF KISEL AVENUE AND THE SOUTH LINE OF SAID LOT 8; RUNNING THENCE EAST 100 FEET, MORE OR LESS, THENCE NORTH 56 FEET; THENCE WEST 100 FEET, MORE OR LESS, THENCE SOUTH 66 FEET TO BEGINNING.

OGDEN WASATCH HOLDINGS LLC

\$77.99

01-021-0070

PART OF LOT 9 AND 10, BLOCK 25, PLAT A, OGDEN CITY SURVEY, WEBER COUNTY, UTAH; BEGINNING AT A POINT 30 FEET EAST AND 85.5 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID LOT 10, RUNNING THENCE EAST 128 FEET, MORE OR LESS, TO THE CENTER OF MERCHANTS ALLEY, THENCE NORTH 58 FEET, MORE OR LESS, THENCE NORTH 89.004 22" WEST 26 FEET, MORE OR LESS, THENCE NORTH 0057.44" EAST 95 FEET, MORE OR LESS, TO THE WEST LINE OF VACATED MERCHANTS ALLEY; THENCE NORTHERLY ALONG SAID WEST SIDE TO THE NORTH LINE OF LOT 9, THENCE WEST TO THE EAST SIDE OF KISEL AVENUE, THENCE SOUTH ALONG SAID EAST LINE 217.5 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. TOGETHER WITH THAT PORTION OF VACATED MERCHANTS ALLEY ABUTTING SAID PROPERTY ON THE EAST. (1746-2882)

OGDEN WASATCH HOLDINGS LLC

\$3,313.60