

ORDINANCE 2007-04

AN ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS  
MADE IN AND FOR THE ENCANTO IRRIGATION SYSTEM SPECIAL  
IMPROVEMENT DISTRICT;  
APPROVING THE APPORTIONMENT AND ASSESSMENT OF SAID COST  
TO EACH LOT IN SAID DISTRICT; AND PRESCRIBING THE MANNER  
FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT

**WHEREAS**, the City of Fruita has complied with all the provisions of law relating to the creation of an improvement district and construction of irrigation system improvements in the Encanto Irrigation System Special Improvement District ("District") pursuant to Ordinance 2006-28 which was approved by the Fruita City Council on August 1, 2006, and pursuant to various resolutions, orders and proceedings taken under said Ordinance; and

**WHEREAS**, the improvements authorized by that ordinance have been completed and conditionally accepted by the City, and the whole costs of the improvements have been determined, and

**WHEREAS**, an assessment roll has been prepared and a statement showing the total costs of the improvements has been filed with the City Council and due notice was given that the City Council would meet to hear and consider objections to the assessment roll on April 3, 2007 and that the owners of the property named in the assessment roll might file with the City Clerk, in writing, his or her objections to the assessment, and

**WHEREAS**, the City Council met at the time and place specified in the notice to hear and consider any objections and no written complaints or objections were made or filed with the City Clerk as set forth in the Notice; and

**WHEREAS**, the City Council has determined that the total costs of the improvements, including all proper incidental expenses is \$78,700 and the amount to be assessed against property owners in said District is \$67,600.

**THE CITY OF FRUITA HEREBY ORDAINS:**

**Section 1:** That all actions previously taken by the Fruita City Council relating to the creation of the District, the construction of improvements therein, and the apportionment and assessments on the property within the district for that purpose be and the same hereby is ratified, approved and confirmed.

**Section 2:** That for the purpose of paying the part of the costs and expenses of the improvements there is hereby levied and assessed against the lots and parcels of land specifically benefitted by said improvements in the District, the amounts specified in the assessment roll attached hereto as Exhibit A which is made a part of this Ordinance and incorporated herein, and covers the following described lots and parcels of land:

Lots 1 thru 7 of Replat of Lots 1 thru 7 to the Encanto Subdivision in the Town of Fruita

Lots 8 thru 32 of the Encanto Subdivision

Lots 1 thru 12, Block 1 of the replat of Sycamore Subdivision Filing #2

Lots 1 thru 5 of Ryan's Minor Subdivision, and

953 E. Pabor, 983 E. Pabor and 963 E. Pabor

**Section 3:** That the decisions of the City Council in levying assessments and this Ordinance confirming the assessments in said assessment roll, constitute a final determination of regularity, validity, and correctness of the proceedings, of said assessment roll, of each assessment contained therein, and of the amount levied on each tract and parcel of land; and such determination by the Council shall be conclusive upon the owners of the property assessed.

**Section 4:** Within fifteen (15) days immediately following the final publication of this Ordinance upon final passage, any person who has filed a complaint, protest, or objection on specific grounds in writing, as hereinbefore provided, shall have the right to commence an action or suit in any court of competent jurisdiction to correct or satisfy such determination; but thereafter any such actions or suits attacking the regularity, validity, or correctness of the proceedings, of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract and parcel of land shall be perpetually barred.

**Section 5:** That all assessments made pursuant to this Ordinance, together with all interest and penalties for default in payment thereof, and all costs of collecting the same, shall constitute a perpetual lien against each lot of land herein described from the effective date of this Ordinance, and as more specifically provided in Chapter 3.20 of the Fruita Municipal Code.

**Section 6:** That the assessments shall be due and payable at the office of the City Clerk within thirty (30) days after the effective date of this Ordinance following its final passage, without interest or penalty and without demand; provided that all or any part of such assessments may, at the election of the owner, be paid in installments, with interest, as hereinafter provided.

Failure to pay the entire assessment within the thirty (30) day period shall be conclusively presumed to be an election on the part of all persons interested, whether under disability or otherwise, to pay the unpaid assessment in installments. All persons so electing to pay in installments shall be conclusively held as consenting to said improvements, and such election shall be conclusively held as a waiver of any and all rights to question the power

or jurisdiction of the City to construct or otherwise acquire the improvements, the quality of work, the regularity or sufficiency of the proceedings, or the validity or correctness of the assessments. In the event of such election to pay in installments, the assessments shall be payable as follows:

- A. Five (5) equal, consecutive annual payments of two hundred ninety one dollars and fifteen cents (\$291.15), or
- B. Sixty (60) equal, consecutive monthly payments of twenty five dollars and one cent (\$25.01)

These payments include interest on the unpaid principal at the rate of 6% per annum, from the effective date of this Ordinance upon its final passage, until paid.

The first payment of principal and interest shall be due on May 3, 2007 and the remainder of said installments on the 3rd day of May each year thereafter if annual payments are chosen, or the 3rd day of each month thereafter, if monthly installments are chosen until all are paid in full.

The owner of any tract or parcel assessed may, at any time, pay the whole unpaid principal with accrued interest to the next payment date, together with penalties, if any.

**Section 7:** The City Clerk shall prepare an assessment roll wherein the record of payments made and the date of each payment on the assessments shall be kept. At the end of the 30 day payment period, the City Clerk shall extend the assessment rolls, showing in suitable columns the information required by Section 31-25-523 C.R.S. The City Clerk is hereby directed to collect any amount payable as an assessment pursuant to the assessment roll.

**Section 8:** Failure to pay any installment, whether principal or interest, when due, shall cause the entire amount of the unpaid principal to become due and payable immediately and the City Clerk shall certify the whole amount of the unpaid principal and interest to the County Treasurer who shall advertise and sell all property concerning which such default is suffered for the payment of the whole of the unpaid assessments thereon, plus penalties and costs of collection. Any time prior to the date of sale the owner may cure default by paying the amount of the delinquent installments, with accrued interest, and all penalties and costs of collection, including publication costs.

**Section 9:** If any one or more parts of this Ordinance should be judicially adjudged invalid or unenforceable, that judgment shall not affect or impair the remaining provisions hereof, it being the intention that the provisions of this Ordinance are severable.

Introduced on March 6, 2007, read by title, passed on first reading and ordered published as required by the Charter.

Introduced a second time at a regular meeting of the Fruita City Council, held on April 3,

2007 passed without amendment, approved and ordered published.

Dated this 3rd day of April, 2007.

ATTEST:

City of Fruita

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City Clerk

\_\_\_\_\_  
Mayor E. James Adams

**EXHIBIT A**

**ENCANTO SPECIAL IMPROVEMENT DISTRICT ASSESSMENT ROLL**

	<b>Tax Parcel #</b>	<b>Property Owner</b>	<b>Service Address</b>	<b>Legal</b>	<b>Assessment Amount</b>
1	<u>2697-171-01-008</u>	ROBERT D LANGSTON and PAMELA JO	257 N PINE ST	LOT 8 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
2	<u>2697-171-01-009</u>	DAVID FITZPATRICK and AMY K EATON-FITZPATRICK	245 N PINE ST	LOT 9 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
3	<u>2697-171-01-010</u>	CLYDE E HOLDER and PAMELA K	231 N PINE ST	LOT 10 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
4	<u>2697-171-01-013</u>	ROBERT D KIBLER and SHERI KIBLER	1061 E PABOR AVE	LOT 13 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
5	<u>2697-171-01-014</u>	KEITH E BEUCHEL and MARY L	220 PALO VERDE ST	LOT 14 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
6	<u>2697-171-01-015</u>	KATHRYN FRANCES SEEBAUM and JAMES E REAKSECKER	232 N PALO VERDE CT	LOT 15 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
7	<u>2697-171-01-016</u>	DAVID M HARGIS and JANET HARGIS	246 PALO VERDE CT	LOT 16 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
8	<u>2697-171-01-017</u>	MATTHEW BORG and JENNIFER ANN BORG	258 PALO VERDE CT	LOT 17 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
9	<u>2697-171-01-018</u>	SHELDON M KUNZ and VONDA KUNZ	257 N PALO VERDE CT	LOT 18 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
10	<u>2697-171-01-019</u>	JAMES RICHARD GARCIA and DELIA ANN GARCIA - LIVING TRUST	245 PALO VERDE ST	LOT 19 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
11	<u>2697-171-01-020</u>	JOYCE PIERCE	231 N PALO VERDE CT	LOT 20 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
12	<u>2697-171-01-021</u>	LUCILLE BOIES and ETAL C/O AMELIA WALT	219 PALO VERDE ST	LOT 21 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
13	<u>2697-171-01-022</u>	CALVIN V DAVIS and DARLENE A DAVIS	205 N PALO VERDE CT	LOT 22 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
14	<u>2697-171-01-023</u>	MARY ELLEN SEAL	1031 E PABOR AVE	LOT 23 ENCANTO SUB SEC 17 1N 2W	\$1,300.00

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15	<u>2697-171-01-024</u>	ROBERT EUGENE RYAN and DEBRA K RYAN	220 N ENCANTO CT	LOT 24 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
16	<u>2697-171-01-025</u>	PATRICK J SMITH	232 N ENCANTO CT	LOT 25 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
17	<u>2697-171-01-026</u>	KORD B RALEY	246 ENCANTO CT	LOT 26 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
18	<u>2697-171-01-027</u>	LYLE D ARNOLD and VERNA ARNOLD	258 N ENCANTO CT	LOT 27 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
19	<u>2697-171-01-028</u>	JAMES VEATCH	257 ENCANTO CT	LOT 28 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
20	<u>2697-171-01-029</u>	TROY A RARICK and SARAH S	245 ENCANTO CT	LOT 29 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
21	<u>2697-171-01-030</u>	SCOTT A MCCURRY and TAMARA R MCCURRY	231 ENCANTO CT	LOT 30 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
22	<u>2697-171-01-031</u>	RICHARD CARTER and SUSAN CARTER	219 ENCANTO CT	LOT 31 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
23	<u>2697-171-01-032</u>	BURNES V ROBINSON and SALLY A	1013 E PABOR AVE	LOT 32 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
24	<u>2697-171-01-033</u>	THOMAS M HAYES	1002 E COLUMBINE AVE	LOT 1 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00
25	<u>2697-171-01-034</u>	VERNON L SPOMER and PENNY S	1014 E COLUMBINE AVE	LOT 2 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00
26	<u>2697-171-01-035</u>	ZACHARY SNYDER	1026 E COLUMBINE AVE	LOT 3 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00
27	<u>2697-171-01-036</u>	DEBORAH J TEMPLE	1036 E COLUMBINE AVE	LOT 4 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00
28	<u>2697-171-01-037</u>	JAMES R REESE and LINDA R REESE	1048 E COLUMBINE AVE	LOT 5 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00

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29	<u>2697-171-01-038</u>	KENNETH L LUMBARDY and CARA L LUMBARDY	1060 E COLUMBINE AVE	LOT 6 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00
30	<u>2697-171-01-039</u>	JESSE C REDEYE and ANETTRA REDEYE	271 N PINE ST	LOT 7 OF REPLAT OF LOTS 1 THRU 7 + PUBLIC ROW ENCANTOSUB IN TOWN OF FRUITA SEC 17 1N 2W	\$1,300.00
31	<u>2697-171-01-040</u>	FRANKIE G MARQUEZ and CATHERINE ANN MARQUEZ	219 N PINE ST	LOT 11 + N 10.5FT OF LOT 12 ENCANTO SUB SEC 17 1N 2W	\$1,300.00
32	<u>2697-171-01-041</u>	RAEHUA MEIMEI PAN	1071 E PABOR WAY	LOT 12 ENCANTO SUB SEC 17 1N 2W EXC N 10.5FT THEREOF	\$1,300.00
33	<u>2697-171-24-001</u>	JOHN R MOSCRIP and EDITH C MOSCRIP	270 N CEDAR CT	LOT 1 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
34	<u>2697-171-24-002</u>	PAUL J CREEDEN and RENEE H	268 N CEDAR CT	LOT 2 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
35	<u>2697-171-24-003</u>	LUCY D OBERLE	266 N CEDAR CT	LOT 3 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
36	<u>2697-171-24-004</u>	DAVID R LISTER	264 N CEDAR CT	LOT 4 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
37	<u>2697-171-24-005</u>	JOSEPH OCONNOR and EILEEN M	262 N CEDAR CT	LOT 5 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
38	<u>2697-171-24-006</u>	TRACEY D GARCHAR and ANGELA P	260 N CEDAR CT	LOT 6 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
39	<u>2697-171-24-007</u>	JOSEPH A BOOKER and JOSEPHINE H BOOKER	261 N CEDAR CT	LOT 7 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
40	<u>2697-171-24-008</u>	DANIEL P WRAY and JANET L WRAY	263 N CEDAR CT	LOT 8 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
41	<u>2697-171-24-009</u>	DENNIS & EDITH ANN HAMMOND	265 N CEDAR CT	LOT 9 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
42	<u>2697-171-24-010</u>	DORIS H RUTLEDGE and ETAL	267 N CEDAR CT	LOT 10 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00

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43	<u>2697-171-24-011</u>	LYNDA D LEFLER	269 N CEDAR CT	LOT 11 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
44	<u>2697-171-24-012</u>	LORI L FICIK	970 E COLUMBINE AVE	LOT 12 BLK 1 REPLAT OF SYCAMORE SUB FIL NO 2 SEC 171N 2W	\$1,300.00
45	<u>2697-171-27-008</u>	DIANE E DODD and TOM DODD JR	945 E PABOR AVE	LOT 5 RYAN'S MINOR SUBDIVISION SEC 17 1N 2W - 2.01AC	\$1,300.00
46	<u>2697-171-00-093</u>	DONALD J WYNKOOP and LAVONNE R	953 E PABOR AVE	BEG 225FT W OF SE COR TR 31 ORCH SUB TO FRUITA SEC 171N 2W N 125FT W 70FT S 125FT E 70FT TO BEG	\$1,300.00
47	<u>2697-171-00-105</u>	MELVIN W MULDER and VERA A	983 E PABOR AVE	EAST 300FT OF S2 TR 31 ORCH SUB TO FRUITA SEC 17 1N 2WEXC BEG 161FT W OF SE COR SD TR 31 W 139FT N 125FTE 139FT S TO BEG + EXC THAT PT TAKEN BY THE REPLAT OFSYCAMORE SUB FIL NO 2	\$1,300.00
48	<u>2697-171-00-085</u>	JENNIE J SOOS	963 E PABOR AVE	BEG 161FT W OF SE COR TR 31 ORCH SUB TO FRUITA SEC 171N 2W W 139FT N 125FT E 139FT S TO BEG EXC W 75FTTHERE OF	\$1,300.00
49	<u>2697-171-27-004</u>	JAMES E ROSS and MICHELLE D ROSS	936 E COLUMBINE AVE	LOT 1 RYAN'S MINOR SUBDIVISION SEC 17 1N 2W - 0.47AC	\$1,300.00
50	<u>2697-171-27-005</u>	STEPHEN LEVESQUE	948 E COLUMBINE AVE	LOT 2 RYAN'S MINOR SUBDIVISION SEC 17 1N 2W - 0.47AC	\$1,300.00
51	<u>2697-171-27-006</u>	CAROL LYNNE ORR	952 E COLUMBINE AVE	LOT 3 RYAN'S MINOR SUBDIVISION SEC 17 1N 2W - 0.47AC	\$1,300.00
52	<u>2697-171-27-007</u>	DONALD M LIGRANI and SHERRY L LIGRANI	964 E COLUMBINE AVE	LOT 4 RYAN'S MINOR SUBDIVISION SEC 17 1N 2W - 0.47AC	\$1,300.00
<b>TOTAL ASSESSMENTS</b>					<b>\$67,600.00</b>