

**CITY OF SAN JOSE**

**ENGINEER'S REPORT**

**MAINTENANCE DISTRICT 5**  
**(ORCHARD PARKWAY – PLUMERIA DRIVE)**

**FISCAL YEAR 2000-01**

Filed in the office of the City Clerk of the City of San Jose on 4/25/00.

Patricia L. O'Hara  
City Clerk, City of San Jose

This Engineer's Report was preliminarily approved by the City Council of the City of San Jose at a meeting thereof on 4/25/00.

Patricia L. O'Hara  
City Clerk, City of San Jose

This Engineer's Report and assessments herein were duly approved, confirmed and adopted by the City Council of the City of San Jose at a meeting thereof on 6/20/00.

Patricia L. O'Hara  
City Clerk, City of San Jose

I, the Director of Finance of the City of San Jose, hereby certify that on 8/3/2000 the assessments contained in this Engineer's Report were delivered to the officer of the County of Santa Clara designated by law to extend City taxes upon the tax roll on which they are collected.

Wendell H. H.  
Director of Finance, City of San Jose

**WHEREAS**, Chapter 14.15 of the City of San Jose Municipal Code provides that benefit assessments may be apportioned upon all assessable lots or parcels of land within a maintenance district in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

**WHEREAS**, on July 17, 1979, the City Council of San Jose adopted its Resolution 51886 providing for the establishment of City of San Jose Maintenance District 5A (Orchard Parkway – First Street to Plumeria Drive); and

**WHEREAS**, on July 17, 1979, the City Council of San Jose adopted its Resolution 51887 providing for the establishment of City of San Jose Maintenance District 5B (Orchard Parkway and Plumeria Drive); and

**WHEREAS**, on June 13, 1995, the City Council of San Jose adopted its Resolution 65980 providing for the reformation of Maintenance Districts 5A and 5B, combined as Maintenance District 5 (Orchard Parkway – Plumeria Drive) in accordance with the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts; and

**WHEREAS**, said Resolution 65980 by approving, confirming and adopting the Engineer's Report for Maintenance District 5, Fiscal Year 1995-96, set the Maximum Annual Cost and the Maximum Annual Assessment for the fiscal years through 1999-2000; and

**WHEREAS**, Articles XIIC and XIID of the California Constitution requires property owner approval of any imposed, extended or increased assessment and that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel.

Only special benefits are assessable; a special benefit being a particular and distinct benefit over and above general benefits conferred on real property within the district or the public at large. The general enhancement of property value does not constitute a special benefit; the general benefits must be separated from the special benefits conferred on a parcel.

**WHEREAS**, on May 20, 1998 the San Jose City Council amended Chapter 14.15 of the City of San Jose Municipal Code to require that general benefit be identified, public agencies pay for general benefit received and that the assessment be authorized by those proposed to be assessed and that the Director of Public Works prepare an Engineer's Report containing:

1. a written description of the boundaries of the district;
2. a description of the improvements to be maintained;
3. a description of the maintenance to be provided;
4. a budget for the ensuing fiscal year;
5. a formula for apportioning the cost among the parcels;
6. an estimate of the initial Annual Aggregate Assessment and the proposed Annual Adjustment with an explanation of the proposed adjustment formula;
7. an assessment roll and the names and addresses of all property owners to be assessed, and;
8. a map or diagram showing the boundaries of the district and identifying the parcels in the district.

**NOW, THEREFORE:**

1. **THE BOUNDARY** of Maintenance District 5 is shown on the map attached as Exhibit 3 and is generally described as: Montague Expressway on the north; Guadalupe River on the west; Trimble Road on the south and North First Street on the east.
2. **THE IMPROVEMENTS** for which maintenance and operation are provided shall include all street islands, and; all additions, improvements and enlargements thereto which may hereafter be made for the District, and of benefit to the District but not of benefit to the City of San Jose as a whole. Improvements include but are not limited to: ornamental plantings, including trees, shrubs, vines, groundcovers and lawns; irrigation, drainage and lighting systems, and; decorative paving, curbing, maintenance bands, seats, walls, and signs.
3. **THE MAINTENANCE AND OPERATION** of the improvements shall include the necessary servicing, repairs, replacements, equipment, supplies, water, fuel, power, electric current, care, supervision, administration and any and all other items necessary for the safe and proper maintenance and operation thereof.
4. **THE BUDGET** for the costs and expenses of maintaining and operating any and all of the public improvements for the 2000-01 fiscal year is shown on the following page.

<b>MAINTENANCE DISTRICT 5 - FUND 357</b>			
<b>SOURCE OF FUNDS</b>	<b>TOTAL</b>	<b>USE OF FUNDS</b>	<b>TOTAL</b>
Beginning Fund Balance:		Expenditures:	
Restricted Cash	\$5,000	Personal Services	\$7,224
Unrestricted Cash	\$164,968	Non Personal Services	\$43,411
Total Beginning Fund Balance	\$169,968	Equipment	\$0
		Total Expenditures	\$50,635
Interfund Transfers:		Interfund Transfers:	
Loans from Other Funds	\$0	Repayment to Other Funds	\$0
Interest	\$0	Interest	\$0
Total Interfund Transfers	\$0	Total Interfund Transfers	\$0
Revenue:		Ending Fund Balance:	
Benefit Assessment	\$54,350	Restricted Cash	\$0
Interest	\$10,050	Unrestricted Cash *	
City General Benefit Share	\$0	Operating Funds	\$37,976
Total Revenue	\$64,400	Replacement Funds	\$145,757
		Total Ending Fund Balance	\$183,733
<b>TOTAL SOURCE OF FUNDS</b>	<b>\$234,368</b>	<b>TOTAL USE OF FUNDS</b>	<b>\$234,368</b>

\* Subject to limitation are the Ending Fund Balances for Unrestricted Cash: Operating Funds and Replacement Funds. Operating Funds may not exceed one year's Total Expenditures. Replacement Funds may not exceed the full replacement value of the improvements maintained. If either limit is exceeded, the excess amount shall be credited to the assessments in proportion to each parcel's assessment.

**5. THE METHOD OF ASSESSMENT** upon and by which the special assessment is to be levied is based upon the benefit received.

#### BACKGROUND

Articles XIII C and XIII D of the California Constitution require that a parcel's assessment not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The Constitution further provides that only special benefits are assessable. If there are general benefits, they must be separated from the special benefits conferred on a parcel; a special benefit being a particular and distinct benefit over and above general benefits which are conferred on the public at large, including real property within the district. The general enhancement of property value is not considered to constitute a special benefit.

Maintenance District 5 provides special benefit to two similar areas. Nearly half of the area within this district was initially developed under two Local Improvement Districts, 78-150SJ and 78-151SJ. The property owner requested formation of the Improvement District to fund major public infrastructure capital costs, including just under half of the median landscaping now within the Maintenance District. The construction performed by the Improvement Districts included enhanced street islands and landscaping, thus creating the need to form a maintenance district to fund the ongoing maintenance of the improvements. The second half of the area within Maintenance District 5 was constructed through private development, and like the first half of the district, street islands were installed and landscaped to adhere to the upgraded configuration of the adjacent area, thus creating a similar circumstance. The formation of a special district was requested for the following reasons: (1) the level of improvements constructed exceeded the level of improvement typically maintained by the City in such an area; (2) a higher than normal City standard of maintenance was desired, and; (3) the improvements specially benefited the area.

The following table compares typical City maintenance services to special district maintenance services. There are also major differences in the design of the improvements maintained. The table helps to define the levels of special services and general services in the special verses general benefit evaluation that follows.

<b>COMPARISON OF CITY AND SPECIAL DISTRICT MAINTENANCE</b>		
<b>ITEM</b>	<b>CITY – GENERAL</b>	<b>SPECIAL DISTRICT</b>
DESIGN	Trees only, occasionally shrubs and/or crushed rock	May include all or part of: trees, shrubs, ground cover, turf, mulches/crushed rock, lighting, pathways, fountains and/or structures
SERVICE FREQUENCY	Monthly	Weekly
TREES Trimming (clearance) Trimming (structural) Replacement	Every 15 years None None	As needed Every 3 years As needed
SHRUBS and GROUND COVER Pruning  Fertilize  Replacement Flowers	Yearly (not all parcels) None  Limited None	Yearly (and as needed) 2 times per year (or as needed) As needed Seasonal
TURF Mowing Fertilize	Every 2 weeks 2 times per year	Weekly 3 times per year
WEED CONTROL Pre-emergent  Contact Spray  Hand Removal	Yearly (not all parcels) Yearly (not all parcels) None	Yearly (and as needed) As needed  As needed
DEBRIS REMOVAL	Monthly	Weekly
IRRIGATION REPAIR	Within 2 weeks (Most systems not functioning)	Weekly
MULCH/BARK/ROCK Grooming Replacement	None None	As needed As needed
GRAFFITI REMOVAL	Within 1 - 2 weeks	Within 1-2 days
HARDSCAPE Cleaning Repair	Safety only Safety only	As needed As needed

## GENERAL BENEFIT

In evaluation of the general benefits provided by the street island landscape maintenance, it is concluded that no general benefit is provided for the following reasons:

1. The proposed landscape maintenance services are to maintain street islands installed for decorative purposes only and not required by the City.
2. The City does not generally provide from generally available City funds, similar services in other similar areas.
3. The proposed service only benefits the properties included within the district, not surrounding areas nor the general public.

The street islands and landscaping are not considered to provide general benefit because the City of San Jose promotes the installation of street islands only on major collector streets throughout the City and provide a general benefit through minimal maintenance of those islands. In evaluating the street design and traffic circulation patterns associated within the district it is concluded that the general traffic is on the major thoroughfares on the perimeter of the district, not the interior collector streets where the median islands are located; any general benefit associated with the landscaping is immeasurable. So from a public use perspective, the street island landscaping provides only a direct and special benefit to those parcels in the development. In summary, no general benefit is derived because: 1) The City, in conformance with City policy, did not require the island construction; 2) the median islands are not in major thoroughfares, and; 3) no general, through traffic is intended.

## SPECIAL BENEFIT

Special benefits are provided to the industrial parcels by the landscape maintenance for the following reasons:

1. The street islands are not required for traffic control purposes; they are provided only as a decorative feature.
2. Special landscaping that is well maintained and readily accessible to the properties may be enjoyed by all tenants, owners, and visitors without the owners expending the effort of individually maintaining, replacing and repairing the improvements.
3. The special landscaping and maintenance reduces the visual and noise impacts of traffic and other activities in the adjoining areas, thereby improving the physical environment within the industrial park, making it more attractive and desirable.
4. The presence of special landscaping that is well maintained and available for the enjoyment of the property tenants, owners, businesses and their visitors specifically enhances the desirability of their property. This contributes to the ability of the parcels to remain superior in comparison to other similarly zoned parcels without these special features.

5. The special landscaping and maintenance, by enhancing the attractiveness of the immediate area, increases desirability for potential tenants and buyers, thereby improving desirability and marketability.
6. When a community's infrastructure are clean, safe, available, and well maintained, its desirability and value are enhanced. Unappealing, unsafe, or damaged common facilities decreases the locale's desirability and ultimately, its value.
7. Attractive, well maintained special landscaping fosters a sense of identity and pride in an area. This tends to influence the individual businesses, tenants and property owners, encouraging improved landscaping on and maintenance of private property, increasing the attractiveness and desirability of all property in the area.
8. Special landscaping, disease and weed control reduces the likelihood of damaging and costly insect or weed infestations spreading to properties within an area.

There is also a 0.01 acre parcel, owned by the Santa Clara Valley Transportation Authority, supporting a power transformer. In evaluating the special benefit that the district may provide to the parcel, it is noted that the parcel provides utilitarian services. Since the parcel has no frontage, nor habitable buildings, is undeveloped and undevelopable, it is concluded that the decorative street islands have no material effect on this parcel, and no special benefit is received.

The special benefit assessment for maintenance of street islands is apportioned to commercial/industrial parcels in the district and is based on two components: 1) the specific enhancements as a result of having well-maintained street islands in the district and; 2) the specific benefit associated with owning a parcel that has frontage on the streets with islands.

In apportioning the special benefit assessment, the following considerations lead to a conclusion that the special benefits be apportioned between each and every commercial/industrial lot equally by area, excepting that the lots fronting on the street islands receive an added benefit and therefore are assessed a premium:

1. All parcels within the development are similarly zoned. This uniform land use contributes to a determination that the benefits are essentially equal.
2. The use, development potential and value of each parcel are direct functions of parcel area, so assessment apportionment by area is an equitable method.
3. For most owners and tenants, the landscaped street islands will be considered an enhancement of the area, providing a unique business park atmosphere. All properties are equally restricted in use of the island areas, so no feature could be considered to be available to use significantly more extensively by any one of the properties. So, facility use, being approximately equal, further contributes to the determination that the benefits are essentially equal.
4. Proximity to the facilities provides one of the reasons to differentiate benefit. A parcel having frontage on streets with the street islands is obviously closer to the enhanced landscaping and benefits from the reduction of noise and visual impacts provided by the landscaped street islands, in addition to the esthetic advantage of having well maintained landscaped islands adjacent to the property.



6. **THE FORMULA** to apportion the special assessment is based on parcel acreage with an adjustment for proximity. Since there is no general benefit to the public at large, the total cost to perform the maintenance on an annual basis is allocated on a per acre basis, adjusted as follows:


1. Any parcel having frontage on the landscaped street islands are assigned a benefit multiplier of 1.25 applied to the parcel acreage.
2. Parcels that do not have frontage on islands are assigned a benefit multiplier of 1.0 applied to the parcel acreage.
3. The Valley Transportation Agency substation receives no special benefit from the landscaping and therefore is not assessed.

7. **THE ANNUAL ADJUSTMENT FORMULA**, upon approval of the property owners, sets maximum limits to the assessments in future annual budgets. Fiscal Year 2000-01 is established as the base year, having a base Annual Aggregate Assessment of \$54,350. The base adjustment index is 172.5, which is the average annual Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-San Jose Area ("CPI") for the fall calendar year (1999) preceding the base assessment year. Assessments for any future fiscal year may not exceed the maximum Annual Adjustment; the maximum assessment is calculated by dividing the \$54,350 base assessment by the 172.5 CPI for the 1999 base calendar year and then multiplying the resulting quotient, \$315.07, by the CPI for the calendar year preceding that desired future fiscal year.

Annual budgets within this limit may be approved by the City Council without additional property owner ratification. This limit may be exceeded only with a majority owner approval of either: 1) a supplemental assessment; 2) a revision of or a supplement to, the maximum assessment and/or adjustment formula, or; 3) any other methodology agreeable to the property owners.

8. **NOW, THEREFORE**, I, RALPH A. QUALLS, JR., Director of Public Works of the City of San Jose by virtue of the power vested in me under the Resolution and the order of the City Council, hereby make the benefit assessments as shown on the Assessment Roll attached as Exhibit 1 upon all parcels of property subject to assessment owned by the persons shown on the Owners List attached as Exhibit 2 and shown on the diagram attached as Exhibit 3.

Dated: 4.25.00

  
Director of Public Works  
City of San Jose