

4/30/02
4.3(a)

CITY OF SAN JOSE

ENGINEER'S REPORT

MAINTENANCE DISTRICT 21
(GATEWAY PLACE - AIRPORT PARKWAY)

FISCAL YEAR 2002-03

Filed in the office of the City Clerk of the City of San José on 3/5/02.

Patricia L. Okuru
City Clerk, City of San José

This Engineer's Report was preliminarily approved by the City Council of the City of San José at a meeting thereof on 3/5/02.

Patricia L. Okuru
City Clerk, City of San José

This Engineer's Report and assessments herein were duly approved, confirmed and adopted by the City Council of the City of San José at a meeting thereof on 4/30/02.

Patricia L. Okuru
City Clerk, City of San José

I, the Director of Finance of the City of San José, hereby certify that on August 7, 2002 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.

Scott P. Johnson
Director of Finance, City of San José

WHEREAS, Articles XIIC and XIID of the California Constitution require 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. The Constitution also provide that public property is subject to assessments.

WHEREAS, Article XIID of the California Constitution provides that 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, Chapter 14.15 of the City of San José Municipal Code establishes the Alternative Procedures for Maintenance Districts in conformance with the requirements of the California Constitution and provides that benefit assessments may be apportioned upon all assessable lots or parcels of land within a maintenance district in proportion to the estimated special benefits to be received by each lot or parcel from the improvements. The Code also requires that the assessment be authorized by a vote of 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 maintenance costs among the parcels;
6. an estimate of the initial Annual Aggregate assessment and the proposed annual adjustment together with an explanation of the proposed adjustment formula;
7. an assessment roll with a property owners list, 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 21 is shown on the map attached as Exhibit 3 and is generally described as: Bayshore Freeway on the north; Guadalupe Parkway on the west; Sonora Drive 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 José as a whole. Improvements shall also include but not be 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 means the necessary servicing, repairs, replacement or construction of additional facilities as may be appropriate to

continue safe and proper operation. Maintenance includes, without limitation, the furnishing of power, water, equipment and supplies, fuel, electric current as may be required and, the 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 2002-03 fiscal year is shown below.

MAINTENANCE DISTRICT NUMBER 21 - FUND 356			
SOURCE OF FUNDS	TOTAL	USE OF FUNDS	TOTAL
Beginning Fund Balance:		Expenditures:	
Restricted Cash	\$0	Personal Services	\$4,000
Unrestricted Cash	\$0	Non Personal Services	\$60,000
Total Beginning Fund Balance	\$0	Equipment	\$3,500
		Total Expenditures	\$67,500
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	\$67,600	Restricted Cash	\$0
Interest	\$845	Unrestricted Cash *	
City General Benefit Share	\$13,570	Operating Funds	\$14,515
Total Revenue	\$82,015	Replacement Funds	\$0
		Total Ending Fund Balance	\$14,515
TOTAL SOURCE OF FUNDS	\$82,015	TOTAL USE OF FUNDS	\$82,015

* 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 special benefit received.

BACKGROUND

Articles XIIC and XIID of the California Constitution require that a parcel's assessment not exceed the reasonable cost of the proportional special benefit conferred on that parcel. These Articles provide 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 21 provides for two types of special benefit; thus, the district has been divided into benefit zones as shown on Exhibit 3. Each and every parcel in the district is assigned to a zone according to the benefit received.

Most of the improvements within Maintenance District 21 were initially constructed by Local Improvement Districts 76-140SJ and 77-145SJ. The property owners requested formation of the improvement districts to fund major public infrastructure capital costs, including the enhanced landscaping in street islands on Gateway Place and portions of the street islands on Airport Parkway. The construction performed by the improvement district included enhanced street islands and landscaping, thus, creating the need to form a maintenance district to fund the ongoing maintenance of these improvements.

A maintenance district was requested to maintain the special improvements for the following reasons: (1) the level of improvements constructed exceed 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 benefit the area.

In 1977, Maintenance District 4 was established to maintain street islands on Gateway Place and later expanded in 1991 to maintain the Airport Parkway street islands. For Fiscal Year 2001-2002, Maintenance District 4 was brought before the property owners for reauthorization with a proposed expansion to add and upgrade street islands on Metro Drive at the request and expense of a property owner representing several properties fronting Metro Drive. The district failed to achieve majority voter approval to continue maintenance services. Subsequently, property owners in the area requested that a new district be formed to continue the special landscape maintenance services for the street island landscaping. Maintenance District 21 will include all the area previously included in Maintenance District 4 and is proposed to include parcels south of Airport Parkway, moving the original maintenance district southern boundaries to Sonora Drive.

A new upscale mixed-use development south of Skyport Drive is proposing enhanced landscape treatments throughout its project. The development proposed includes street island landscaping consistent with the upgraded configuration of the adjacent area; thus, creating a similar need to fund maintenance of the improvements.

Maintenance District 21 shall provide maintenance services for the enhanced landscaping in street islands on Gateway Place, Airport Parkway, Metro Drive, and proposed street islands on Skyport Drive.

The table below compares typical City maintenance services to special district maintenance. There are also major differences in the design of the improvements maintained. The following table helps to define the levels of special services vs. general services offered by the City.

COMPARISON OF CITY AND SPECIAL DISTRICT MAINTENANCE		
ITEM	CITY – GENERAL	SPECIAL DISTRICT
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)	Every 15 years	As needed
Trimming (structural)	None	Every 3 years
Replacement	None	As needed
SHRUBS and GROUND COVER		
Pruning	Yearly (not all parcels)	Yearly (and as needed)
Fertilize	None	2 times per year (or as needed)
Replacement	Limited	As needed
Flowers	None	Seasonal
TURF		
Mowing	Every 2 weeks	Weekly
Fertilize	2 times per year	3 times per year
WEED CONTROL		
Pre-emergent	Yearly (not all parcels)	Yearly (and as needed)
Contact Spray	Yearly (not all parcels)	As needed
Hand Removal	None	As needed
DEBRIS REMOVAL	Monthly	Weekly
IRRIGATION REPAIR	Within 2 weeks (Most systems not functioning)	Weekly
MULCH/BARK/ROCK		
Grooming	None	As needed
Replacement	None	As needed
GRAFFITI REMOVAL	Within 1 – 2 weeks	Within 1-2 days
HARDSCAPE		
Cleaning	Safety only	As needed
Repair	Safety only	As needed

GENERAL BENEFIT

In evaluation of the general benefits provided by the street island landscape maintenance, it is concluded that the proposed landscape maintenance services on Airport Parkway and Skyport Drive provide benefit to the general public and the City as a whole as well as to properties included within the district for the following reasons:

1. Standard landscape maintenance service is provided for street islands required by the City for traffic control purposes.
2. The maintenance service provided by the District relieves the City of the underlying City standard maintenance responsibility for these islands.
3. The City provides standard maintenance services from generally available City funds in other similar areas.

The Airport Parkway and proposed Skyport Drive street islands and enhanced landscaping are considered to provide general benefit because the City of San José promotes the installation of street islands on major thoroughfares throughout the City and provides a general benefit through minimal maintenance of those islands. In evaluating the street designs and traffic circulation patterns associated with the district, it is concluded that general traffic is expected on these major thoroughfares. Accordingly, the street island landscaping on Airport Parkway and Skyport Drive provides some general benefit to the City as a whole. In summary, general benefit is derived because: 1) The City, in conformance with City policy, has or will require the street island construction; 2) general, through traffic is intended; and, 3) the street islands are in a major thoroughfare. Conversely, the street islands on Gateway Place and Metro Drive were not required, nor are these streets considered major thoroughfares; therefore, no general benefit is derived.

City standard landscaping for street islands consists of street trees and non-organic ground cover. The standard level of landscape maintenance includes traffic clearance trimming of trees, occasional weed and litter control, minimal watering, minor irrigation repairs and no tree replacement. Therefore, the general benefit to the parcels in this district is calculated as the equivalent of the City's cost to perform its standard street island landscaping maintenance for the islands to be maintained by the district.

SPECIAL BENEFIT

Each and every assessed parcel within the district receives a particular and distinct benefit from the improvements over and above any general benefit that may be conferred by those services. The operation and maintenance of the street island landscaping provides a specific and direct benefit to all properties within the district and therefore the costs of operation and maintenance may be levied upon the properties in proportion to the benefit received.

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

1. Street islands that are not expressly required for traffic control purposes are provided as a decorative feature.

2. Street islands that were required for traffic control purposes were installed with enhanced landscaping, a level above City standard to provide continuity within the district.
3. Special landscaping that is well maintained and readily visible 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.
4. 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, making it more attractive and desirable.
5. 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.
6. 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.
7. 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 community's desirability and ultimately, its value.
8. 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.
9. Special landscaping disease and weed control reduces the likelihood of damaging and costly insect or weed infestations spreading to properties within an area.

The street islands on Airport Parkway and Gateway Place currently have enhanced landscaping. Metro Drive street islands will be upgraded at the request and expense of the adjacent property owners. When constructed, the Skyport Drive street islands will have enhanced landscaping. The enhanced landscaping on Airport Parkway, Metro Drive, and Skyport Drive street islands provide special benefit to all parcels within district, while the enhanced landscaping on Gateway Place, due to its remote location, provide special benefit only to those parcels that directly access them.

One parcel within Maintenance District 21 is owned by a public entity. This 1.93 acre parcel is owned by the County of Santa Clara. In evaluating the special benefit that the district may provide to this parcel, it is noted that the parcel contains an office building. Since the use of this parcel is similar to other office uses in the district, it will be assessed using the same formula. A 1.3 acre portion of another parcel within the district will be improved and dedicated to the City. In evaluating the special benefit that the district may provide to this parcel, it is noted that the parcel will be used as a public park. Since the park will have no habitable buildings, will be City maintained and operated like all other neighborhood parks, and will be available to the general public, it is concluded that the decorative street islands will have no material effect on this parcel and no special benefit is received.

The special benefit assessment from street islands is apportioned to parcels in the district based on three components: 1) the specific enhancements as a result of having well-maintained street islands in the district; 2) the specific benefit associated with owning a parcel that has frontage on the streets with islands and; 3) the specific benefit derived by proximity to the facilities being maintained.

In apportioning the special benefit assessment, we must evaluate two distinct areas of the district. They are the area wide street islands on Aripport Parkway, Metro Drive, and Skyport Drive and Benefit Zone A street islands on Gateway Drive shown on Exhibit 3.

Airport Parkway, Metro Drive, and Skyport Drive

In apportioning the special benefit assessment, the following considerations lead to the determination that the special benefits be apportioned between each and every parcel within the district equally by parcel acreage for the area wide street islands on Airport Parkway, Metro Drive, and Skyport Drive. Parcels that front on street islands receive an added benefit, and therefore, are assessed a premium.

1. All parcels within the area 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.

Gateway Place (Benefit Zone A)

In apportioning the special benefit assessment, the following considerations lead to the determination that the special benefits be apportioned between each and every parcel within Benefit Zone A equally by parcel acreage for landscaped street islands on Gateway Place. Parcels that front on street islands within the zone receive an added benefit, and therefore, are assessed a premium.

1. All parcels within the benefit zone 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.
 4. Gateway Place, being a cul-de-sac, will limit exposure to and use of the street island areas to property owners and their constituents located in and or in close proximity to this cul-de-sac, therefore, these islands are considered to be more available and used significantly more by these same properties. So, facility use, being specific to an area, further contributes to the determination that the benefits are essentially limited to these properties.
 5. 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 benefit assesses each parcel in proportion to the benefit each property receives from street islands based on parcel size and benefit zone with an adjustment for proximity. The amount of the General Benefit allocation is subtracted from the amount of the total budgeted expenditures for the maintenance and operation of the improvements and the remaining amount is the cost of the maintenance to be apportioned among district properties on the basis of special benefit. Therefore, the resulting special benefit assessment from street islands is apportioned to parcels, in the district or in a benefit zone, based on three components: 1) the specific enhancements as a result of having well-maintained street islands in the district; 2) the specific benefit associated with owning a parcel that has frontage on the streets with islands and; 3) the specific benefit derived by proximity to the facilities being maintained.
1. Parcels that do not have frontage on streets with landscaped street islands are assigned a benefit factor of 1.0, which is applied to that parcel's acreage.
 2. Parcels that have frontage on streets within the district that have landscaped street islands are assigned a benefit factor of 1.25, which is applied to that parcel's acreage.
 3. Parcels owned by the City for park purposes are not assessed, and therefore are assigned a 0.00 factor.

Airport Parkway, Metro Drive, and Skyport Drive

All costs associated with the maintenance of the enhanced landscaping on the street islands in Airport Parkway, Metro Drive, and Skyport Drive are assessed to all properties within the district. All properties are assessed based on the ratio of each parcel's calculated net acreage, a parcel's acreage multiplied by a benefit factor to adjust for proximity, to the total calculated parcel net acreage.

Gateway Place (Benefit Zone A)

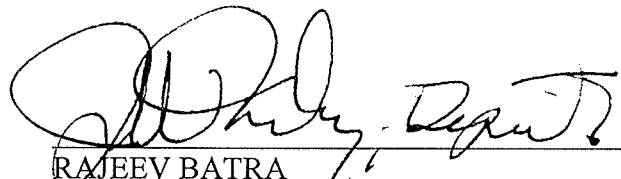
All costs associated with the maintenance of the enhanced landscaping on the street islands in Gateway Place are assessed to all properties within Benefit Zone A. Each parcel's assessment in Benefit Zone A is based on the ratio of the parcel's calculated net acreage, a parcel's acreage multiplied by a benefit factor for Gateway Place to adjust for proximity, to the total calculated parcel net acreage within the zone.

7. **THE ANNUAL ADJUSTMENT FORMULA**, upon approval of a majority vote of the property owners, sets maximum limits to the assessments in future annual budgets. Fiscal Year 2002-03 is established as the base year, having a base Annual Aggregate Assessment of \$67,600. The base adjustment index is 189.9, which is the average annual Consumer Price Index (CPI), All Urban Consumers, for the San Francisco-Oakland-San José Area for the calendar year (2001) 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 \$67,600, base assessment by the 189.9 CPI for the 2001 base calendar year and then multiplying the resulting quotient, \$355.98, by the CPI for the calendar year preceding the 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, RAJEEV BATRA, Acting Director of Public Works of the City of San José 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: 5 MAR 02


RAJEEV BATRA
Acting Director of Public Works
City of San José