

CITY OF SAN JOSE

MAINTENANCE DISTRICT NUMBER 15
(SILVER CREEK VALLEY)

FISCAL YEAR 1997-98

ENGINEER'S REPORT

Filed in the office of the City Clerk of the City of San Jose on April 29, 1997

Patricia L. O'Keefe
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 April 29, 1997.

Patricia L. O'Keefe
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

SEE ATTACHED
RESOLUTION

City Clerk, City of San Jose

I, the Director of Finance of the City of San Jose, hereby certify that on _____ 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.

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; and

WHEREAS, Articles XIIC and XIID of the California Constitution require that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel; the Articles provide that only special benefits are assessable and the general enhancement of property value does not constitute a special benefit; the City must separate the general benefits from the special benefits conferred on a parcel, a special benefit being a particular and distinct benefit over and above general benefits conferred on the public at large, including real property within the district; and

WHEREAS, on August 4, 1992, the City Council of San Jose adopted its Resolution No. 63973, a Resolution providing for the establishment of City of San Jose Maintenance District Number 15 ; and

WHEREAS, on June 20, 1995, the San Jose City Council adopted its Resolution Number 66024, providing for the reformation of City of San Jose Maintenance District Number 15 (Silver Creek Valley) pursuant to the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts, which provides for the reforming of districts previously established under Chapter 14.16 Part 15.

NOW, THEREFORE:

THE BOUNDARY as shown on the map attached as Exhibit 3, is generally described as Casey Way to the north, Bayshore Freeway to the west, Hellyer Avenue to the south, and San Felipe Road to the East.

THE IMPROVEMENTS to be serviced, maintained, and operated include any and all public improvements that provide special benefit to properties within the District. They are constructed as part of the Silver Creek Valley Planned Residential Community and generally include, but are not limited to, landscape maintenance associated with median islands, park strips, sidewalks, open space trails, slopes, utility crossings, and vista point natural conservation areas. These improvements exist in various degrees throughout the District and by their location and purpose they have been divided into seven separate zones which are described below.

Zone A (Silver Creek Valley Country Club) in the southeasterly half of the District contains:

- Median island landscaping on Silver Creek Valley Road from approximately 1,580 feet northerly of Farnsworth Drive, south to Hellyer Avenue.
- Sidewalks, open space trails (paved wide walkways), park strip landscaping (strip areas within the right-of-way behind curbs or sidewalks) and slope landscaping (open space

areas within public easements) within Zone A and out to Hellyer Avenue along Silver Creek Valley Road; and

- Private utility crossings emergency repairs along Silver Creek Valley Road between Ironshoe and Farnsworth Drives and along Farnsworth Drive between Silver Creek Valley Road and San Felipe Road.

Zone B in the northwesterly half of the District contains:

- Median island landscaping on Silver Creek Valley Road from Yerba Buena Road south to approximately 1,580 feet northerly of Farnsworth Drive, Yerba Buena Road and Neiman Boulevard. The Silver Creek Valley Road landscaping is completed. It is projected that Yerba Buena Road landscaping will be completed by July 1998, and Neiman Boulevard landscaping at Yerba Buena Road will be completed by July 2001.
- Sidewalks, park strip landscaping (strip areas within the right-of-way behind curbs or sidewalks) and slope landscaping (open space areas within public easements) along Silver Creek Valley Road, Yerba Buena Road, and Neiman Boulevard.

Zone C (Richmond Ranch/California Oak Creek) in the southeasterly corner of the District contains:

- Open space trails (paved wide walkways along Thompson Creek);
- Slope landscaping (open space areas within public easements);
- Watershed and vista point natural conservation areas; and
- Entrance landscaping at street intersections with San Felipe Road.

Zone D (Hillstone) within the east-central area on Zone B contains:

- Entrance landscaping at street intersections with Silver Creek Valley Road and Yerba Buena Road.

Zone E (Ryland Homes/Crossroads) within the northeast-central area of Zone B contains:

- Sidewalks, park strip landscaping (strip areas within the right-of-way behind curbs or sidewalks), slope landscaping (open space areas within public easements) and sound walls along the westerly side of Yerba Buena Avenue and the northerly side of Yerba Buena Road; and
- An emergency vehicle access way across the Yerba Buena Avenue cul-de-sacs.

Zone F (Silvergate/Terrena Valley) within the north-central area of Zone B contains:

- Rear lot sidewalks, rear lot park strip landscaping (strip areas within the right-of-way behind curbs or sidewalks) and slope landscaping (open space areas within public easements) along Terra Brava Place; and
- Entrance landscaping at the intersection with Neiman Boulevard.

Zone G (Hillstone II) in the southeasterly corner of Zone B contains:

- Sidewalks, park strips, slopes along Silver Creek Valley Road, Farnsworth Drive,

and San Felipe Road; and

- Entrance landscaping at street intersections with Silver Creek Valley Road and San Felipe Road.

The preceding improvements include but are not limited to: walks, curbing, maintenance bands, decorative paving, signage, fences, walls, trellises, seats and statuary; irrigation, drainage and lighting systems; native and ornamental plantings including lawns, grasses, ground covers, vines, shrubs and trees, 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.

THE MAINTENANCE AND OPERATION of the improvements shall include necessary cleaning, power sweeping, litter and graffiti removal, servicing, repairs, replacements, equipment, supplies, water, fuel, power, electric current, care, supervision and any and all other items necessary for the safe and proper maintenance and operation thereof.

THE BUDGET for the costs and expenses of maintaining and operating any and all of the public improvements for the fiscal year is:

SOURCES & USES OF FUND 354	Zone A	Zone B	ZoneC	ZoneD	ZoneE	Zone F	ZoneG	Total
Beginning Fund Balance:								
Replacement Reserve Funds	400,000	4,800	100,000	0	0	0	0	504,800
Unrestricted Cash	439,448	4,000	74,750	0	4,240	6,360	0	528,798
Total Beginning Fund Balance	839,448	8,800	174,750	0	4,240	6,360	0	1,033,598
Revenue:								
General Benefit Contribution	16,005	0	0	0	0	0	0	16,005
Special Benefit Assessment	380,000	33,000	60,000	0	5,000	6,000	80,000	564,000
Interest	50,367	528	10,485	0	254	382	0	62,016
Other	0	0	0	0	0	0	0	0
Total Revenue	446,372	33,528	70,485	0	5,254	6,382	80,000	642,021
TOTAL SOURCE OF FUNDS	1,285,820	42,328	245,235	0	9,494	12,742	80,000	1,675,619

SOURCES & USES OF FUND 354	Zone A	Zone B	ZoneC	ZoneD	ZoneE	Zone F	ZoneG	Total
USE OF FUNDS								
Expenditures:								
Personnel Services	46,000	3,000	10,000	0	1,500	1,500	4,000	66,000
Non Personnel Services	322,525	15,000	50,000	0	0	0	0	387,525
Equipment	0	0	0	0	0	0	0	0
Total Expenditures	368,525	18,000	60,000	0	1,500	1,500	4,000	453,525
Ending Fund Balance:								
Restricted Cash	0	0	0	0	0	0	0	0
Operating Reserve Funds	417,295	24,328	85,235	0	7,994	11,242	26,000	572,094
Replacement Reserve Funds	500,000	0	100,000	0	0	0	50,000	650,000
Total Ending Fund Balance	917,295	24,328	185,235	0	7,994	11,242	76,000	1,222,094
TOTAL USE OF FUNDS	\$1,285,820	\$42,328	\$245,235	\$0	\$9,494	\$12,742	\$80,000	\$1,675,619

THE ANNUAL LEVY is calculated for each fiscal year of assessment. The annual assessment will not exceed the reasonable cost of the proportional special benefit conferred on the properties within the District. The Fiscal Year 1997-98 Annual Levy is shown in the Assessment Roll, attached as Exhibit 1.

THE MAXIMUM ASSESSMENT AND ANNUAL ADJUSTMENT, upon approval of a majority vote of the property owners, sets maximum limits to the assessments in the annual District budget. The Fiscal Year 1997-98 Maximum Assessment is the annual assessment shown in the Assessment Roll, attached as Exhibit 1. Commencing with Fiscal Years 1998/99, the assessment for the District is subject to an Annual Adjustment limit each year. The Annual Adjustment shall not exceed the change in the Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-San Jose Area ("CPI"), from January through January of the previous calendar year. (Example: the 1998/99 Fiscal Year may be subject to an increase not to exceed the CPI change from January 1997 to January 1998). Future annual assessments within this limit may be approved by the City Council without additional property owner ratification. These limits may be exceeded only with a majority property owner approval of either: 1) a supplemental assessment; 2) a revision of or

supplement to, the base and/or adjustment formula, or 3) any other methodology amenable to the property owners within the District boundary.

THE OPERATING RESERVE FUND AND REPLACEMENT RESERVE FUND will be maintained for emergency conditions. The Operating Reserve Fund may be funded up to an amount equaling one year's Total Expenditures, and the Replacement Reserve Fund may be funded up to 100% of the improvement replacement value. If either of the funds exceed these limits, the excess assessment revenue will be credited to the assessed parcels in proportion to each parcel's assessment.

THE METHOD OF ASSESSMENT upon and by which the benefit assessment is to be levied is as follows.

BACKGROUND

Articles XIIC and XIID of the California Constitution require that a parcel's assessment may not exceed the reasonable cost of the proportional *special benefit* conferred on that parcel. The Articles provide that only special benefits are assessable. The *general benefits* 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 conferred on the public at large, including real property within the district. The general enhancement of property value does not constitute a special benefit.

The boundary of Maintenance District No. 15 (Silver Creek Valley) (the "District") is coterminous with the boundary of Integrated Finance District No. 88-203SJ (the "IFD"), except for Zone C. The IFD funded the capital costs associated with the improvements maintained and operated throughout the District. Because the property owners had requested these improvements, which exceed the public improvements typically constructed for such an area, the properties within the IFD were conditioned to construct the improvements and to fund their ongoing maintenance. The capital improvements funded by the IFD (upon request of property owners) provided incentive for development and served residential developments in the Silver Creek Valley area. The area within Zone C also benefitted from the improvements and the property owners, at the owner's request, contributed their share of the costs by a separate agreement. The area within Zone C also benefitted from the improvements and therefore it is fair and equitable that the properties assessed for the capital improvements be assessed for the maintenance of those improvements.

The District was originally divided into three primary zones of benefit because construction timing and variations in the locations and types of improvements maintained caused differences in benefit received by properties. The District now includes seven zones of benefit to differentiate the special and direct benefit received by parcels in these distinct boundary areas.

Public improvements to be maintained by the District will be built in multi-year stages.

Therefore, only partial assessments will be levied against those property owners benefiting from improvements installed within the District. Upon complete build-out of commercial and residential developments within the District, each development will be assessed for the operation of annual maintenance as outlined below in the subsection entitled "Formula".

SPECIAL BENEFIT

The improvements maintained can be classified into two groups: shared District-wide benefit for median island landscaping, and; benefit specific to the properties within each zone for sidewalks, private utility crossings, emergency vehicle access way, open space trails, park strips, slopes, entrance landscaping, watershed and vista point conservation areas. The maintenance provided in each Zone is shown in the table below.

Maintenance Item	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F	Zone G
Median Landscaping	x	x	x	x	x	x	x
Sidewalks	x	x	x	1	x	x	x
Open Space Trails	x		x				
Park strip Landscaping	x	x		1	x	x	x
Slope Landscaping	x	x	x	1	x	x	x
Entrance Landscaping			x	2		x	x
Private Utility	x						
Watershed/Vista Point			x				
Emergency Vehicle					x		

Footnote 1: Provided by Owners Association, therefore excluded from District.

2: Currently funded by Owner's Association, therefore not assessed until responsibility is moved from the Association.

Each and every developed parcel within the District receives a particular and distinct benefit from the improvements, over and above any general benefit that may be conferred by the improvements. The Operation and Maintenance of the improvements provides a specific and direct benefit to the developed properties within the District even though there may not be an improvement immediately adjacent to a particular parcel as further described below. The level of maintenance provided for the improvements are unique to the District. Although there are other areas within the City that have similar improvements maintained by the City, a lower level of maintenance is provided at a substantially lower expense.

The property owners, at the time of development, requested to install these special amenities that required a higher level of maintenance than would normally be provided by the City. Therefore, the City approved each development with the condition that improvements would be installed and that an ongoing funding mechanism in the form of a maintenance district would be established for the maintenance of the improvements that serve the parcels.

In addition, the Operation and Maintenance of the improvements within the District boundary provides a special and direct benefit to the Zones in which the services are provided. Within each Zone, the maintenance is unique to that Zone and confers a particular and distinct benefit upon parcels within that Zone as follows:

- The median island landscaping operation and maintenance is provided at a higher level of service within the District boundaries than to areas outside of the District.
- The proper maintenance of median islands, sidewalks, park strips and slopes, private utility crossings, and emergency vehicle access improvements provides the following special benefits:
 - a safe mode of circulation for the property owners, residents, tenants, businesses, clients, and other visitors of parcels within the District;
 - enhanced noise abatement and visual screening to reduce negative traffic impacts within the District;
 - specific increased economic value to improved property due to greater capacity to draw prospective real estate purchasers, homeowners, tenants, and employers to the District. The proper maintenance of these improvements provides increased attractiveness of the District as a place to live, work, and do business;
 - enhanced erosion control and reduced possibility of land or mud slides which can cause the loss of property and economic vitality. Landscaping also reduces stormwater runoff and the likelihood that such runoff will create ponding thereby increasing the possibility of damage to property;
 - enhancement of development projects by the appearance of landscaping and the increased ability of new and secondary market residential and non-residential products to be successfully marketed;
 - increased desirability of parcels to remain economically viable and be attractive to business activity in comparison to other similar areas that do not have the same level of improvements and maintenance; and
 - property owners may enjoy the benefits of having such improvements available for use while avoiding the expense of privately installing and maintaining similar improvements.
- The safe and proper maintenance of sidewalks and park strips within the public rights-of-way is property owners' individual responsibility by State and City laws. The District provides this maintenance at the owners' request.

- Spraying and treating of District landscaping for disease and weed control reduces the likelihood of insect or weed infestation spreading to the landscaping located on properties within the District.
- The operation and maintenance for open space trails; park strip, slope, and entrance landscaping; and watershed and vista point conservation areas are provided at a higher level of service within the District boundaries and within certain Zone boundaries than to areas outside of the District and/or Zone boundaries.
- The parcels within the District receive a special benefit when public infrastructure including median islands, sidewalks, open space trails; park strip, slope, and entrance landscaping; and watershed and vista point conservation areas are in place, safe, clean, and well maintained.

The parcels in the District that benefit from the maintenance of the improvements are those developed parcels that can use the improvements. The public lands, common areas, and permanent open spaces within the District do not benefit from the maintenance of the improvements because they function as landscaping and open space and do not gain value from the availability of these additional landscaping and open space improvements.

GENERAL BENEFIT

In addition to the special benefits received by the parcels in each Zone in the District, the general benefit that is conferred by operation and maintenance of each of the improvements must be evaluated.

Median Island Landscaping. In evaluating the general benefit associated with median island landscaping, the traffic circulation patterns associated within the District area were evaluated. It was concluded that the general benefit to traffic passing through the District is primarily associated with the paved roadway portions, traffic signals and signs. Any general benefit associated with the landscaping is immeasurable. Therefore, from a public use perspective, the median island landscaping provides only a direct and special benefit to those parcels in the area as discussed in the "Special Benefit" section above. However, the City of San Jose usually promotes the maintenance of median island landscaping on major collector streets throughout the City. The standard level of landscaping is limited to a non-organic ground cover usually aggregate rock or similar material, trees, and an irrigation system. The City's 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 the equivalent of the City's cost to perform median island maintenance for the area of median islands funded by the District. All costs above this minimum maintenance level are of special and direct benefit to the parcels in the District.

Sidewalks and Park strips. There is no general benefit associated with the sidewalk maintenance funded through the District. The sidewalks and park strips are constructed by and maintained exclusively for the benefit of the adjacent property owners within the District.

Private Utility Crossings. Private Utility Crossings only serve Zone A. Zone A is a gated community and all of the interior streets and utilities are privately owned and maintained by the Homeowners' Association or property owners. The community has utility crossings under public streets (Farnsworth Drive and Silver Creek Valley Road) that, in the event of an emergency such as an earthquake or a mud slide, may require substantial and immediate repairs that would be supplied by the City rather than by the Homeowners' Association. Since the formation of the District, reserve funds have been utilized thereby eliminating the need to assess for this maintenance. In the event an emergency occurs, the City, through this District, would have the capability to authorize the repairs and recover the cost from the parcels in Zone A. It is important, therefore, to maintain an adequate level of reserves for this purpose through the annual assessment process. The maintenance of these crossings is of a special and direct benefit to the parcels in Zone A, and therefore, no general benefit is associated with this maintenance cost.

Emergency Vehicle Access Way. When the subdivision that comprises the Zone E boundary was constructed, through travel on Yerba Buena Avenue was eliminated by the construction of two cul-de-sacs which reduced prompt emergency vehicle access to Zone E parcels. To restore prompt emergency access to the Zone E subdivision, a paved emergency vehicle access way was constructed between the cul-de-sacs. It is maintained by Zone E with the funding being the exclusive responsibility of the Zone E parcels. The maintenance of this Emergency Vehicle Access Way is of a special and direct benefit to the parcels in Zone E because the access was provided for their benefit, and therefore, no general benefit is associated with this maintenance cost.

Open Space Trails. The Open Space Trails were installed as part of the planned development subdivisions of the parcels. The Open Space Trails consist of wide concrete or asphalt trails in open space areas within the Zone boundaries. The Open Space Trails are unique to several Zones of the District, in that no other area in the City has similar amenities. Therefore, the Open Space Trails and the special benefits listed above only serve to provide a special benefit to the properties within Zones where they are located and confer a minimal general benefit. The general benefit available from the Open Space Trails is associated with the pedestrian circulation system that is provided by having open space trails that connect to dedicated open space, parks, and school ground open spaces. The general benefit associated with the Open Space Trails is offset by the open space and park funding the City of San Jose provides for these amenities within the benefitting Zone boundaries.

Slope, and Entrance Landscaping. The Slope and Entrance Landscaping improvements were installed during construction of each subdivision. Only the Zones that have these improvements benefit from the enhanced economic and aesthetic value provided by their

maintenance. Each Zone, designating specific tracts, requested these extraordinary landscaped areas to improve the appearance of their Zone. City policy does not permit funding of either construction or maintenance of such work; therefore, as a condition of development the owners assumed full responsibility for the costs. Therefore, the operation and maintenance of Slope and Entrance Landscaping provides no general benefit to the public at large, but rather provides only special benefit to the parcels within the Zone where the maintenance is available.

Watershed and Vista Point Conservation Areas. The Watershed and Vista Point Conservation Areas are located only within Zone C. The Areas were restored and planted with native trees to comply with City standards, to mitigate the loss of some riparian habitat along Thompson Creek, and to control future habitat and watershed damage resulting from the residential intrusion. The loss of riparian habitat and the ongoing threat of damage is a direct result of the development that is within the boundaries of Zone C. Therefore, the parcels in Zone C receive a special and direct benefit from the Watershed and Vista Point Conservation Areas. However, the Vista Point Conservation Area is adjacent and open to City public lands which encourages use by the general public and indicates a general benefit is conferred to the District and the community at large. While the relative values are difficult to quantify, the cost associated with maintaining the Vista Point Conservation Area is considered to be more than offset by the cumulative special benefit contributed by the adjacent City land. Therefore, there is no additional City monetary contribution required.

FORMULA

To establish the special benefit assessment upon the individual parcels within the District, each parcel is evaluated to determine its relative benefit from each maintenance item. This initial analysis takes into consideration the availability of amenities within a given Zone. The properties are then evaluated to determine their proportional benefit from the maintenance based on their land use and, in the case of commercial properties, their parcel size. Equivalent Dwelling Unit Yields (EDUY's) are assigned to each parcel as described more fully in the following section.

Equivalent Dwelling Unit Yield (EDUY). The EDUY for a parcel is determined based on the planned number of residential lots within a Zone. One dwelling unit represents one residential property. The City Planning Department uses the San Jose General Plan guidelines to calculate the maximum number of dwelling units allowed upon a subdivision not yet subdivided into residential lots. The resulting amounts are Dwelling Unit Yields. The Dwelling Unit Yield is adjusted when required to represent City zoning changes and the direct benefit to a particular property from the maintained public facility. The adjusted yield is called the Equivalent Dwelling Unit Yield. In Zone A where non-residential uses exist, an equivalency is required to relate commercial property to residential property.

The benefit commercial property receives from the District improvements related to the single family residential properties in the District can be derived from the comparative

impact on infrastructure between the two uses. The impact on infrastructure from commercial properties can be expected to be related to the incremental size of each commercial parcel since commercial parcels can vary substantially for various uses. For determining the Equivalent Dwelling Unit Yield to be assigned for properties in commercial uses, these properties are related to residential as described by the sanitary sewer residential to commercial equivalency factor of 8.5 dwelling units per acre. The 8.5 dwelling units per acre is applied to each commercial parcel's acreage to determine the EDUY for each commercial parcel.

Median Islands Area-Wide Assessment. All properties in the District specially benefit from the specific enhancement of safety, convenience, and higher standard of living as a result of having well-maintained median islands in the major collector streets within the District. The cost of the median islands is assessed to the parcels in the District based on the benefit that the medians provide as a part of an overall circulation system. In the Environmental Impact Report (EIR) for the Silver Creek Valley Planned Residential Community, traffic generation projections were determined for each of the Zones A, B and C. These projections provide a basis for EDUY comparison between the Zones. Therefore, the median island assessment to each parcel is based on its Zone location and its relative Equivalent Dwelling Unit Yield.

Zone A (Silver Creek Valley Country Club) is located in the southern half of the District. The benefit the Zone A parcels receive from median island improvements is based on the projected vehicular traffic demands the Zone A parcels impose on the streets within Zone A. In the EIR, it was established that all of the traffic generated by Zone A was projected to use street improvements within Zone A. However, in addition to traffic from the Zone A parcels, streets within Zone A carry traffic destined for the Zone C boundary area. Therefore, Zone C is conferred a benefit from the median islands within Zone A.

Zone A, being the first area to develop, constructed Silver Creek Valley Road to enable access to the area. The developer, Shea Homes, requested to install all the median landscaping to enhance the marketing of their properties. Beginning fiscal year 1997-98 all Yerba Buena Boulevard median landscaping is assessable to Zone B because the development triggering the assessment has occurred.

Zone B (northerly half) is located in the northern half of the District. Zones D through G are within the boundaries of Zone B, and therefore, benefit from the median island improvements the same as other Zone B parcels. The benefit the Zone B parcels receive from median island improvements is based on the projected vehicular traffic demands the Zone B parcels impose on the streets within Zone B. In the EIR, it was established that all of the traffic generated within Zone B (including the areas in Zones D through G) was projected to use street improvements within Zone B. However, in addition to traffic from the Zone B parcels, streets within Zone B carry traffic destined for the Zone C boundary area. Therefore, Zone C is conferred a benefit from the median island improvements within Zone B.

Zone C (Richmond Ranch/California Oak Creek) in the southeasterly corner of the District is outside of the boundaries of Zone A and Zone B. The benefit the Zone C parcels receive from median island improvements is based on the projected vehicular traffic demands the Zone C parcels impose on the streets within Zone A and Zone B. In the EIR, it was established that 65 percent of the traffic generated by Zone C was projected to use street improvements within Zones A & B.

In this EIR, it was established that 86 percent of the 65 percent generated by Zone C was projected to use street improvements that are within Zone A and 14 percent of the 65 percent generated by Zone C was projected to use street improvements that are within Zone B.

Therefore, the costs for the median island landscaping are as follows:

1. Median island landscaping within Zone A along Silver Creek Valley Road from Farnsworth Drive southwest out of the District to Hellyer Avenue is shared by Zone A residential parcels assessed at 1.0 EDUY, commercial parcels assessed at 8.5 EDUY per acre, and Zone C residential parcels at 0.56 EDUY (86% of 65%).
2. Median island landscaping within Zone B along Silver Creek Valley Road from Farnsworth Drive northwest approximately 1,580 feet is shared by Zone A residential parcels assessed at 1.0 EDUY, commercial parcels assessed at 7.0 EDUY per acre, and Zone C residential parcels at 0.09 EDUY (14% of 65%).*
3. Median island landscaping along Silver Creek Valley Road from approximately 1,580 feet north of Farnsworth Drive northwest to Yerba Buena Road is shared by Zone B residential parcels assessed at 1.0 EDUY and Zone C residential parcels at 0.09 EDUY (14% of 65%).*
4. Median island landscaping along Yerba Buena Road is shared by Zone B residential parcels assessed at 1.0 EDUY and Zone C residential parcels at 0.09 EDUY (14% of 65%).
5. Median island landscaping maintenance within Zone B north of Yerba Buena Road along Neiman Boulevard is assessed to Zone B residential parcels at 1.0 EDUY per parcel. Beginning fiscal year 1997-98 all Yerba Buena Boulevard median landscaping is assessable to Zone B because the development triggering the assessment has occurred.

* Silver Creek Valley Road from Farnsworth Drive to approximately 3,160 feet northerly is fronted by Zone A on the west and Zone B on the East. To simplify assessment, that common island area is divided in half at 1,580 feet northerly of Farnsworth, rather than along the centerline for 3,160 feet.

Zone-Specific Improvements Within each Zone, a particular parcel's benefit assessment is calculated by multiplying the maintenance and operation costs that provide a special and direct benefit by the ratio of the individual parcel's Equivalent Dwelling Unit Yield (EDUY) to the total of all benefiting parcels' EDUY. The maintenance costs for improvements specific to each Zone is spread equally to each EDUY. All units within a Zone are within

easy access to the facilities and the use thereof is approximately equal so no adjustments are made for location and/or unit sizes or value.

Additional Improvements. Each development within the District is responsible for maintenance and operation of their own medians, back-up landscaping, slope areas, and other internal areas within the boundaries of their development. In the event that developing residential parcels within the District boundary desire to include the maintenance of any portion of these improvements in the District, they may petition to add these improvements to the District. Inclusion will be on a case-by-case basis, subject to City requirements and subject to mailed ballot approval by those property owners who would be affected by the changed assessment. The entire cost of installation, maintenance and operation of any facilities added to this District will be assessed to the benefitting lots located within the area of benefit.

CONCLUSION

All of the above contribute to specific enhancement of the property values of each of the parcels within the District. The Operation and Maintenance of Silver Creek Valley renders a specific and direct benefit to the assessable parcels located throughout the District and the levy of a special assessment for the improvements is appropriate.

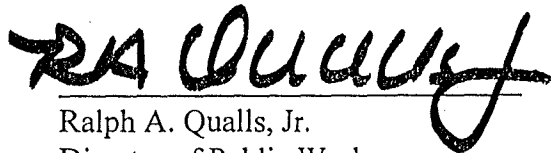
NOW, THEREFORE, I, RALPH A. QUALLS, JR., Director of Public Works of the City of San Jose by virtue of the power vested in me under the Resolution and the order of the City Council, hereby make the benefit assessments as shown on the Assessment Roll attached as Exhibit 1 upon all parcels of property 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: 4/29/97



David R. Anderson, RCE #C045458

Engineer of Work
Willdan Associates



Ralph A. Qualls, Jr.

Director of Public Works
City of San Jose

RESOLUTION NO. 67417

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE TAKING CERTAIN ACTIONS RELATED TO THE REAUTHORIZATION OF MAINTENANCE DISTRICT NUMBER 15 (SILVERCREEK) INCLUDING THE ADOPTION OF THE ENGINEER'S REPORT AND SETTING THE ASSESSMENT AS DETAILED THEREIN

WHEREAS, Maintenance District Number 15 ("MD 15") was established in 1992 to finance the maintenance of the following improvements as they are constructed: approximately 7.5 acres of landscaped median islands, 46.5 acres of park strip and slope landscaping and certain sidewalks along Silver Creek Valley Road, Yerba Buena Road and Nieman Blvd; and 5 miles of open space trails in residential developments in the Silver Creek Valley area of Evergreen, all assessments in the District being charged in accordance with various zones of benefit as detailed in the Engineer's Report; and

WHEREAS, on November 6, 1996, California voters approved Proposition 218, which, among other things, requires the reauthorization of certain assessment districts by the property owners within the districts through a notice and balloting procedure; and

WHEREAS, on April 29, 1997, the Council preliminarily approved a revised Engineer's Report for MD 15, and directed staff to publish notice of the public meeting on June 10, 1997 and the public hearing on June 17, 1997 and to mail such notice and ballots to the property owners within the District; and

WHEREAS, on May 3, 1997, such notice was published and mailed; and

WHEREAS, on June 10, 1997, the first public meeting was duly held, at which the Council heard public testimony on the issue of the reauthorization of MD 15; and

WHEREAS, on June 17, 1997, the final public hearing was duly commenced, at which the Council heard public testimony; and the ballots were tallied, but which final public hearing was continued to June 19 1997 at 1:30, and reported to the Council by the City Clerk on June 19 1997; and

WHEREAS, the result of the tally of the ballots for the reauthorization of MD 15, as reported by the City Clerk, was:

Zone A: property owners with assessments totaling \$249,681.12 in support, and property owners with assessments totaling \$12,924.18 opposed;

Zone B: property owners with assessments totaling \$8,810.40 in support, and property owners with assessments totaling \$390.40 opposed;

Zone C: property owners with assessments totaling \$18,691.56 in support, and property owners with assessments totaling \$3,922.92 opposed;

Zone D: property owners with assessments totaling \$0 in support, and property owners with assessments totaling \$ 0 opposed;

Zone E: property owners with assessments totaling \$2,250.00 in support, and property owners with assessments totaling \$625.00 opposed;

Zone F: property owners with assessments totaling \$0 in support, and property owners with assessments totaling \$6,000.30 opposed;

Zone G: property owners with assessments totaling \$0 in support, and property owners with assessments totaling \$80,000.46 opposed.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of San Jose that:

1. The Council hereby finds that the property owners returning ballots have approved the reauthorization of the following assessments in MD 15: Zone A; Zone B; Zone C; and Zone E.
2. The Council hereby adopts the Engineer's Report for MD15 and sets the assessment in those Zones in which the assessment was reauthorized by the property owners, as proposed in said Engineer's Report.

ADOPTED this 19th day of June, 1997, by the following vote:

AYES: DANDO, DIQUISTO, FERNANDES, JOHNSON,
PANDORI, SHIRAKAWA, FISCALINI


NOES: NONE

ABSENT: DIAZ, POWERS, WOODY; HAMMER


SUSAN HAMMER, Mayor

BY: FRANK FISCALINI
Vice Chair of the Redevelopment
Agency

ATTEST:


PATRICIA L. O'HEARN, City Clerk

CITY OF SAN JOSE

ENGINEER'S REPORT

Formation of
ZONE F (NORTHERLY NIEMAN BLVD)
in
MAINTENANCE DISTRICT 15
(SILVER CREEK VALLEY)

FISCAL YEAR 1999-2000

Filed in the office of the City Clerk of the City of San Jose on 2/8/00

Patricia L. O'Keefe
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 2/8/00

Patricia L. O'Keefe
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 4/4/00

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

I, the Director of Finance of the City of San Jose, hereby certify that on _____ 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.

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; and,

WHEREAS, Articles XIII C and XIII D of the California Constitution require that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel; and,

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; and,

WHEREAS, on May 20, 1998 by Ordinance 25353 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 benefit received and 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. an assessment method;
6. a formula for apportioning the cost among the parcels;
7. an annual adjustment formula, if the assessments are to be levied more than one year;
8. an assessment roll with a property owners list, and;
9. a map or diagram showing the boundaries of the district and identifying the parcels in the district; and,

WHEREAS, on June 11, 1996, the San Jose City Council adopted its Resolution 66689, providing for the reauthorization of City of San Jose Maintenance District 15 (Silver Creek Valley) pursuant to the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts. District 15, through various benefit zones, provides for the special maintenance of amenities benefiting the District. As properties within District 15 were subdivided, additional zones (C and E) provided for special maintenance of amenities that were of benefit only to those areas.

WHEREAS, the owners of properties representing over 10 percent of certain lands lying within existing Maintenance District 15, intending to install special landscaping of benefit only to those lands, submitted to the City of San Jose a written petition pursuant to Municipal Code Chapter

14.15, to add a special zone of benefit in District 15 for said lands to provide additional special landscape maintenance of those added amenities.

WHEREAS, said lands lie wholly within the boundaries of Zone B, in the northerly half Maintenance District 15 (Silver Creek Valley), which provides for the maintenance and operation of landscaped median islands in Silver Creek Valley Road, Yerba Buena Road and Nieman Boulevard.

NOW, THEREFORE:

1. **THE BOUNDARY** of Maintenance District 15 proposed Zone F (Northerly Nieman Boulevard), is shown on the map attached as Exhibit 3 and is generally described as: a line approximately 800 feet westerly of Nieman Boulevard on the west; existing residential areas at the northerly District 15 boundary on the north; Nieman Boulevard on the northerly half of the east side and on the southerly half of the east side, the easterly District 15 boundary, and; a line approximately 1,300 feet northerly of Yerba Buena Road on the south.

2. **THE IMPROVEMENTS** in proposed Zone F for which maintenance and operation would be provided are to be constructed by Tracts 8925, 9010 and 9031 in the locations shown on the map attached as Exhibit 3, include: landscaping in slope areas (within landscape easements) and adjoining frontages along Nieman Boulevard and Terra Brava Place, including entrance landscaping at three intersections with Neiman Boulevard.

Improvements may include but are not limited to: ornamental plantings including trees, shrubs, vines, groundcovers, flowers and grasses; irrigation, drainage and lighting systems, and; decorative paving, mulches, curbing, maintenance bands, seats, walls, fences, statuary and signs.

The improvements include all additions, improvements and enlargements thereto which may hereafter be made for Proposed Zone F, and of benefit to the proposed Zone but not of benefit to the City of San Jose as a whole.

3. **THE MAINTENANCE AND OPERATION** of the improvements shall include the necessary supervision, care, service, repairs, replacements, equipment, supplies, water, fuel, power and any and all other items necessary for 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 below. This budget is for one full year of maintenance service beginning July 1, 2000. It was intended to fund the work through assessments collected with the 1999-00 County property taxes; at least one-half due by December 10, 1999, any balance due by April 10, 2000. However, in the current schedule the assessment would be approved after the deadline for including assessments on the County tax

roll, so the District would directly invoice the property owners. Invoices shall have the same delinquency provisions as County tax bills and as near as possible, the same due dates.

SOURCE OF FUNDS		USE OF FUNDS	
Beginning Fund Balance:		Expenditures:	
Restricted Cash	\$0	Personal Services	\$5,000
Unrestricted Cash *	\$6,615	Non Personal Services	\$42,400
Total Beginning Fund Balance	\$6,615	Equipment	\$2,000
		Total Expenditures	\$49,400
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	\$51,200	Restricted Cash	\$0
Interest	\$600	Unrestricted Cash **	
City General Benefit Share	\$0	Operating Funds	\$9,000
Total Revenue	\$51,800	Replacement Funds	\$15
		Total Ending Fund Balance	\$9,015
TOTAL SOURCE OF FUNDS	\$58,415	TOTAL USE OF FUNDS	\$58,415

* \$6,615 transfer from the 1995-96 previous MD 15 Zone F benefit assessment, plus interest.

** Subject to limitation are the Ending Fund Balances for Unrestricted Cash: Operating Funds; 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.

PARTIAL WORK - It is possible that all or part of the district maintenance does not commence on July 1, 2000 as intended. If all or part of the work is assumed early, an additional assessment shall be included with the 1999-00 assessment. The additional amount shall be equal to the estimated fraction of the work multiplied by the fraction of a year multiplied by the 1999-00 assessment. If all or part of the landscape maintenance is not expected to be accepted for district maintenance by July 1, 2000, the full 1999-2000 assessment may be reduced, either by a credit against the assessment, or a credit against future assessments. Finally, if the improvements are installed and acceptable to the District but the District for any reason cannot commence maintenance, the developer shall provide suitable interim maintenance until District assumption.

Upon submittal of proof of those interim expenses, the District may reimburse the developer in an amount not to exceed the District's estimate for that maintenance expense.

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 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 15 provides for several areas and types of benefit, so the resultant assessments are grouped by benefit zones. Each and every parcel in the District is assigned to zones according to the benefits received. Nearly half of the area (Zone A) within Maintenance District 15 was initially developed by Local Improvement District 88-203SJ. The property owner requested formation of the Improvement District to fund major public infrastructure capital costs, including about half of the median landscaping now within the Maintenance District. Also requested was formation of a maintenance district to fund the ongoing maintenance of these improvements because: (1) the level of improvements constructed exceeded the level of improvement typically maintained by the City in such an area, and; (2) a higher than normal City standard of maintenance was desired.

All properties within proposed Zone F lie wholly within existing Zone B of Maintenance District 15 and are assessed for the maintenance and operation of Zone B special landscaping in Silver Creek Valley and Yerba Buena Roads median islands.

The special landscaping improvements are installed by the developers as development progresses to enhance proposed Zone F and provide special benefit to the residents. The slopes within the landscape easement areas along Nieman Boulevard elevate the home sites above Nieman Boulevard, increasing the separation from the roadway and buffering the homes from that major thoroughfare. Within the proposed Zone, the land contours did not allow some lots to be graded to match abutting lands, so sloped conform areas resulted. These resulting areas also allow storm runoff to drain away from the home sites. Although City design standards prefer that lots to drain to the front, these subdivisions could not exist without the rear lot drainage in some of the slope areas that allows the subdivisions' surface grades to meet adjacent land contours. Access for maintenance of the enhanced landscaping in the slope areas is allowed by the landscape easements.

The table below compares general City maintenance services to Special District maintenance. Note that the City service is maintenance within street right-of-ways and this proposed district maintenance is primarily within easements abutting street right-of-ways. 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 versus general benefit evaluation that follows.

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

SPECIAL BENEFIT

Each and every assessed parcel within Zone F receives a particular and distinct benefit from the maintenance and operation of the special improvements over and above any general benefit that may be conferred by those services. The benefit is specific and direct to all properties within the District and therefore may be levied upon the properties in proportion to the benefit received.

Special benefits are provided to the residential parcels by the proposed Zone F frontage, slope and entrance area landscape maintenance:

1. The frontage landscape maintenance and operation services meet the legal obligations of the property owners. State and City laws hold property owners individually responsible for the safe and proper maintenance of their frontages.
2. The slope landscaping maintenance and operation services, provided in easements over private property, meets the underlying legal and social obligations of property ownership.
3. The slope areas were needed for this development's grading and lotting to conform to abutting lands. None of these residential lots could occur without the special subdivision lotting and drainage plan.
4. By providing special district landscape maintenance and operation services within easements, the owners avoid the expense of establishing common areas and forming a registered owners association to fund and administer the services.
5. Special landscaping that is well maintained and readily accessible to the properties within a neighborhood may be enjoyed by all the owners and visitors without the owners expending the effort of individually installing and maintaining such improvements.
6. The Nieman Boulevard special landscaping and maintenance reduces the noise, pollution and visual impact of traffic and other activities in the adjoining areas, thereby improving the physical environment within a neighborhood, making it more livable and desirable.
7. The special landscaping and maintenance, by increasing separation of each neighborhood from the major street, enhances a neighborhood's identity, unity, serenity and security.
8. The presence of special landscaping that is well maintained and available for the enjoyment of the property owners 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.
9. The special landscaping and maintenance, by enhancing the attractiveness of a neighborhood, increases desirability for potential home buyers, thereby improving salability and value.
10. When a community's infrastructure are available, safe, clean, and well maintained, its desirability and value are enhanced. Unappealing, unsafe or damaged common facilities decreases the community's desirability and ultimately, its value.
11. Attractive, well maintained special landscaping fosters a sense of community and pride in a neighborhood. This tends to influence the individual property owners, encouraging improved landscaping on and maintenance of their property, increasing the attractiveness and desirability of all property in the neighborhood.

12. Special landscaping disease and weed control reduces the likelihood of damaging and costly insect or weed infestations spreading to properties within a neighborhood.

In evaluating the special benefit that Zone F may provide to public property, there are no public parcels within the Zone. However, adjoining the westerly Zone F boundary are undeveloped lands owned by the Santa Clara Valley Water District. The lands contain several seismic faults and are currently undevelopable. Therefore the special landscape maintenance has no effect on those public areas and it is concluded that there is no special benefit received by public agencies from Zone F.

In apportioning the special benefit assessment, the following considerations lead to a conclusion that the special benefits be apportioned between three distinct neighborhoods based on the estimated costs of the service provided to each neighborhood, then within each neighborhood, each and every residential lot is assessed equally, excepting that the lots having landscape easements receive an added five percent assessment premium:

1. The land configuration, lot and street patterns, and housing types naturally divides the proposed zone into three neighborhoods. Each is identified by its own special entrance.
2. Because of the different configurations of each neighborhood, the areas of landscaping varies between the three neighborhoods.
3. Each neighborhood's entrance area, being the only access, (except that one area has secondary interior access) must be equally shared in use by all residents of that neighborhood in their daily travels.
4. In developing the subdivision, the sense of one unified neighborhood is enhanced by land grading, lot arrangements and special landscaping that buffers perimeter lots from the adjacent major streets and groups those perimeter homes with interior streets and homes.
5. The slopes and easement areas are provided to facilitate subdividing the land into to the allowed number of lots and conform final elevations to abutting lands and existing major streets. They are not designed to increase benefit to any particular lot or lots.
6. The slopes and easement areas vary to allow lots to fit grading constraints. Consequently, the areas of special landscaping vary. The landscaping is not designed to provide different levels of benefit, it is designed to unify each neighborhood and buffer it from major streets.
7. By installing special landscaping in the easement areas, rather than allowing each owner of the areas to use and construct improvements, cohesive, unified neighborhoods are created.
8. Every property deed contains Conditions, Covenants and Restrictions (CC and R's) that are intended to maintain a consistent neighborhood appearance and use, fostering a unified sense of identity and community.
9. Within each of the three neighborhoods all parcels are similar; all are zoned for single family residential. However, in the northerly neighborhood they tend to be average sizes, the easterly tends to be of the largest City size categories and the middle tends toward larger lots. The homes vary in size, corresponding with the neighborhood. This uniform

land use within each neighborhood, but varied between neighborhoods contributes to a determination that the benefits differ between the neighborhoods but once within a neighborhood, are essentially equal.

10. In setting home sale prices, the builders charges premiums for added benefits and features such as upgraded materials, larger homes or lots and prime locations such as secluded cul-de-sac lots or view lots. There is no premium for those lots having the special easement landscaping because the buyers, seeing no added benefit, will not pay premiums for easements.
11. For most residents in each neighborhood, the landscaped features will be considered an enhancement of the area; a pleasant view as they come and go in their daily routines. All properties are equally restricted in use of the easement area, so no feature could be considered to be available to use significantly more extensively by some of the residents. So, facility use, being approximately equal, further contributes to the determination that the benefits are essentially equal.
12. Proximity to the facilities provides no reason to differentiate benefit. All neighborhood residents pass the easement and entrance areas, proximity has minimal effect on their passages. Parcels having the easement areas obviously are nearer the improvements but the positive impact of the added landscaping is negated by the negative impacts of the adjoining major streets.
13. Parcels having the landscape easements retain the underlying title to the land, but gain no measurable difference in benefit above the other parcels within the subdivision because access to and use of that land is denied both legally by the easement and physically by the slopes, plantings and permanent fencing installed at the easement borders.
14. However, parcels having the landscape easements, in retaining underlying title to the land, would be responsible for maintaining the area if the District did not provide maintenance. Therefore, the District provided maintenance relieves those parcels of maintenance responsibility, which at a minimum, would be to provide weed, pest and litter control.

GENERAL BENEFIT

In evaluation of the general benefits provided by the frontage and slope landscape maintenance, it is concluded that no general benefit is provided for the following reasons.

1. The proposed landscape maintenance service would be in frontage areas and easements on private residential properties.
2. The City does not generally provide from generally available City funds, similar services in other similar areas. State and City laws hold the property owner responsible for maintenance associated with property frontage, at the owner's expense, therefore, general public funds are not expended in frontage areas.
3. Private property and the abutting frontages are required by City and State laws to be maintained in a safe, unobstructed condition by the property owner at that owner's expense. Therefore, general public funds are not expended for such maintenance.


4. The proposed service only benefits the properties included within the zone, not surrounding areas nor the general public.
5. There are no public properties in the proposed zone.
6. **THE FORMULA** upon and by which the special benefit assessment is to be levied for the costs of maintenance and operation of all Zone F landscaping is:
 1. a) Three neighborhoods are defined as shown on the attached map: East Neighborhood; Southwest Neighborhood, and; North Neighborhood. Calculate by neighborhood, the estimated maintenance costs for the amenities specifically located in each neighborhood.
 - b) Then, within each neighborhood, equally apportion the benefit assessment among each and every residential lot except that any lot having a landscaped easement or frontage shall be levied a five percent (5%) premium.
 2. No general benefit contributions are required.
 3. No public parcels are assessed.

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 1999-00 is established as the base year, having a base assessment of \$51,200. The base adjustment index is 165.5, which is the average annual Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-San Jose Area ("CPI") for the calendar year (1998) 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 \$51,200 base assessment by the 165.5 CPI for the 1998 base calendar year and then multiplying the resulting quotient, \$300.37, 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 approval. 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 approved by 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: 2. 8. 00


Director of Public Works
City of San Jose

CITY OF SAN JOSE

ENGINEER'S REPORT

Formation of
ZONE G (SOUTHEAST-CENTRAL AREA)
in
MAINTENANCE DISTRICT 15
(SILVER CREEK VALLEY)

FISCAL YEAR 1999-00

Filed in the office of the City Clerk of the City of San Jose on 2/8/00

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 2/8/00

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 3/28/00

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 _____ 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.

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, Articles XIIC and XIID of the California Constitution require 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 by Ordinance 25353 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 benefit received and 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. an assessment method;
6. a formula for apportioning the cost among the parcels;
7. an annual adjustment formula, if the assessments are to be levied more than one year;
8. an assessment roll with a property owners list, and;
9. a map or diagram showing the boundaries of the district and identifying the parcels in the district.

WHEREAS, on June 11, 1996, the San Jose City Council adopted its Resolution 66689, providing for the reauthorization of City of San Jose Maintenance District 15 (Silver Creek Valley) pursuant to the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts. District 15, through various benefit zones, provides for the special maintenance of amenities benefiting the District. As properties within District 15 were subdivided, additional zones (C and E) provided for special maintenance of amenities that were of benefit only to those areas.

WHEREAS, the owners of properties representing over 10 percent of certain lands lying within existing Maintenance District 15, intending to install special landscaping of benefit only to those lands, submitted to the City of San Jose a written petition pursuant to Municipal Code Chapter

14.15, to add a special zone of benefit in District 15 for said lands to provide additional special landscape maintenance of those added amenities.

WHEREAS, said lands lie wholly within the boundaries of Zone B, in the northerly half of Maintenance District 15 (Silver Creek Valley), which provides for maintenance and operation of landscaped median islands in Silver Creek Valley Road, Yerba Buena Road and Nieman Boulevard.

NOW, THEREFORE:

1. THE BOUNDARY of Maintenance District 15 proposed Zone G (Southeast-Central Area), is shown on the map attached as Exhibit 3 and is generally described as: Silver Creek Valley Road on the west; on the north, a line approximately 1,800 feet southerly of Yerba Buena Road extending approximately 2,000 feet easterly from Silver Creek Valley Road to Bently Ridge Drive, turning southerly on Bently Ridge Drive to approximately 3,200 feet southerly of Yerba Buena Road then turning easterly again for approximately 1,500 feet to San Felipe Road; San Felipe Road on the east; and, Farnsworth Drive and the Silver Creek Country Club on the south.

2. THE IMPROVEMENTS in proposed Zone G for which maintenance and operation would be provided are constructed by Tracts 8990 and 8991 in the locations shown on the map attached as Exhibit 3, include: landscaping in slope areas (within landscape easements) and adjoining frontages along Silver Creek Valley Road, Farnsworth Drive, San Felipe Road and Larkspur Canyon Drive, and; entrance landscaping including street islands at two intersections with Silver Creek Valley Road and one intersection with San Felipe Road.

Improvements may include but are not limited to: ornamental plantings including trees, shrubs, vines, groundcovers, flowers and grasses; irrigation, drainage and lighting systems, and; decorative paving, mulches, curbing, maintenance bands, seats, walls, fences, statuary and signs.

The improvements include all additions, improvements and enlargements thereto which may hereafter be made for proposed Zone G, and of benefit to the proposed Zone but not of benefit to the City of San Jose as a whole.

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. Abutting soundwall and view fence maintenance is limited to graffiti removal, minor surface repairs and painting on the street side only.

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 below. This budget is for one full year of maintenance service beginning July 1, 2000. It was intended to fund the work through

assessments collected with the 1999-00 County property taxes; at least one-half due by December 10, 1999, any balance due by April 10, 2000. However, in the current schedule the assessment would be approved after the deadline for including assessments on the County tax roll, so the District would directly invoice the property owners. Invoices shall have the same delinquency provisions as County tax bills and as near as possible, the same due dates.

SOURCE OF FUNDS		USE OF FUNDS	
Beginning Fund Balance:		Expenditures:	
Restricted Cash	\$0	Personal Services	\$25,000
Unrestricted Cash	\$0	Non Personal Services	\$237,000
Total Beginning Fund Balance	\$0	Equipment	\$10,000
		Total Expenditures	\$272,000
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	\$285,700	Restricted Cash	\$0
Interest	\$3,300	Unrestricted Cash *	
City General Benefit Share	\$0	Operating Funds	\$17,000
Total Revenue	\$289,000	Replacement Funds	\$0
		Total Ending Fund Balance	\$17,000
TOTAL SOURCE OF FUNDS	\$289,000	TOTAL USE OF FUNDS	\$289,000

* Subject to limitation are the Ending Fund Balances for Unrestricted Cash: Operating Funds; 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.

PARTIAL WORK - It is possible that all or part of the district maintenance does not commence on July 1, 2000 as intended. If all or part of the work is assumed early, an additional assessment shall be included with the 1999-00 assessment. The additional amount shall be equal to the estimated fraction of the work multiplied by the fraction of a year multiplied by the 1999-00 assessment. If all or part of the landscape maintenance is not expected to be accepted for district maintenance by July 1, 2000, the full 1999-2000 assessment may be reduced, either by a credit against the assessment, or a credit against future assessments. Finally, if the improvements are installed and acceptable to the District but the District for any reason cannot commence maintenance, the developer shall provide suitable interim maintenance until District assumption.

Upon submittal of proof of those interim expenses, the District may reimburse the developer in an amount not to exceed the District's estimate for that maintenance expenses.

5. THE METHOD OF ASSESSMENT upon and by which the special assessment is to be levied is based upon the 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. The 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 15 provides for several areas and types of benefit, so the resultant assessments are grouped by benefit zones. Each and every parcel in the District is assigned to zones according to the benefits received. Nearly half of the area (Zone A) within Maintenance District 15 was initially developed by Local Improvement District 88-203SJ. The property owner requested formation of the Improvement District to fund major public infrastructure capital costs, including about half of the median landscaping now within the Maintenance District. Also requested was formation of a maintenance district to fund the ongoing maintenance of these improvements because: (1) the level of improvements constructed exceeded the level of improvement typically maintained by the City in such an area, and; (2) a higher than normal City standard of maintenance was desired.

All properties within proposed Zone G lie wholly within existing Zone B of Maintenance District 15 and are assessed for the maintenance and operation of Zone B special landscaping in Silver Creek Valley and Yerba Buena Road median islands.

The special landscaping improvements are installed by the developer as development progresses to enhance proposed Zone G and provide special benefit to the residents. The slopes within the landscape easement areas along Silver Creek Valley Road, Farnsworth Drive and San Felipe Road elevate the home sites above those major streets, increasing the separation from the roadways and buffering the homes from those major thoroughfares. Most importantly, the easement areas provide for slopes needed to meet abutting land contours. The slope areas also allow storm runoff to drain away from the home sites. Although City design standards prefer that lots to drain to the front, these subdivisions could not exist without the rear lot drainage in special easement areas that allows the subdivisions' surface grades to meet adjacent land contours. Access for maintenance of the enhanced landscaping in the slope areas is allowed by the landscape easements.

The table below compares typical City maintenance services to Special District maintenance. Note that the City service is maintenance within street right-of-ways and this proposed district maintenance is primarily within easements abutting street right-of-ways. 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.

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

SPECIAL BENEFIT

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

Special benefits are provided to the residential parcels by the proposed Zone G frontage, slope and entrance island landscape maintenance:

1. The frontage landscape maintenance and operation services meet the legal obligations of the property owners. State and City laws hold property owners individually responsible for the safe and proper maintenance of their frontages.
2. The slope landscaping maintenance and operation services, provided in easements over private property, meets the underlying legal and social obligations of property ownership.
3. The slope areas were needed for this development's grading and lotting to conform to abutting lands. None of these residential lots could occur without the special subdivision lotting and drainage plan.
4. The entrance islands are unneeded for traffic purposes; they are provided only as a decorative feature for special entrance landscaping.
5. By providing special district landscape maintenance and operation services within easements, the owners avoid the expense of establishing common areas and forming a registered owners association to fund and administer the services.
6. Special landscaping that is well maintained and readily accessible to the properties within a neighborhood may be enjoyed by all the owners and visitors without the owners expending the effort of individually installing and maintaining such improvements.
7. The special landscaping and maintenance reduces the noises, smells and visual impacts of traffic and other activities in the adjoining areas, thereby improving the physical environment within a neighborhood, making it more livable and desirable.
8. The special landscaping and maintenance, by increasing separation of the neighborhood from the major streets, enhances a neighborhood's identity, unity, serenity and security.
9. The presence of special landscaping that is well maintained and available for the enjoyment of the property owners 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.
10. The special landscaping and maintenance, by enhancing the attractiveness of a neighborhood, increases desirability for potential home buyers, thereby improving salability and value.
11. When a community's infrastructure are available, safe, clean, and well maintained, its desirability and value are enhanced. Unappealing, unsafe or damaged common facilities decreases the community's desirability and ultimately, its value.
12. Attractive, well maintained special landscaping fosters a sense of community and pride in a neighborhood. This tends to influence the individual property owners, encouraging

improved landscaping on and maintenance of their property, increasing the attractiveness and desirability of all property in the neighborhood.

13. Special landscaping disease and weed control reduces the likelihood of damaging and costly insect or weed infestations spreading to properties within a neighborhood.

In evaluating the special benefit that Zone G may provide to public property, there are no public parcels within the Zone. Adjoining the easterly Zone G boundary are publicly owned creek-side slopes, minimally maintained in a native state by public agencies. The abutting special landscape easement areas have no material effect on those public areas so it is concluded that there is no special benefit received by public agencies from Zone G.

In apportioning the special benefit assessment, the following considerations lead to a conclusion that the special benefits be apportioned between each and every residential lot equally, excepting that the lots having landscape easements receive an added five percent assessment premium:

1. In developing the subdivision, the sense of one unified neighborhood is enhanced by land grading, lot arrangements and special landscaping that buffers perimeter lots from the adjacent major streets and groups those perimeter homes with interior streets and homes.
2. The slopes and easement areas are provided to facilitate subdividing the land into to the allowed number of lots and conform final elevations to abutting lands and existing major streets. They are not designed to increase benefit to any particular lot or lots.
3. The slopes and easement areas vary to allow lots to fit grading constraints. Consequently, the areas of special landscaping vary. The landscaping is not designed to provide different levels of benefit, it is designed to unify a neighborhood and buffer it from major streets.
4. By installing special landscaping in the easement areas, rather than allowing each owner of the areas to use and construct improvements, a cohesive, unified community is created.
5. Every property deed contains Conditions, Covenants and Restrictions (CC and R's) that are intended to maintain a consistent community appearance and use, fostering a unified sense of identity and community.
6. All parcels within the development are similar. All lots are zoned for single family residential, being of the largest City size categories. The homes are all much larger than average City housing, being the among the largest of San Jose tract built homes. This uniform land use contributes to a determination that the benefits are essentially equal.
7. In setting home sale prices, the builder charges premiums for added benefits and features such as upgraded materials, larger homes or lots and prime locations such as secluded cul-de-sac lots or view lots. There is no premium for those lots having the special easement landscaping because the buyers, seeing no added benefit, will not pay premiums for easements.
8. For most residents, the landscaped features will be considered an enhancement of the area; a pleasant view as they come and go in their daily routines. All properties are equally restricted in use of the easement area, so no feature could be considered to be available to use significantly more extensively by some of the residents. So, facility use, being

approximately equal, further contributes to the determination that the benefits are essentially equal.

9. Proximity to the facilities provides no reason to differentiate benefit. All residents pass the easement and entrance areas, proximity has minimal effect on their passages. Parcels having the easement areas obviously are nearer the improvements but the positive impact of the added landscaping is negated by the negative impacts of the adjoining major streets.
10. Parcels having the landscape easements retain the underlying title to the land, but gain no measurable difference in benefit above the other parcels within the subdivision because access to and use of that land is denied both legally by the easement and physically by the slopes, plantings and permanent fencing installed at the easement borders.
11. However, parcels having the landscape easements, in retaining underlying title to the land, would be responsible for maintaining that area if the District did not provide maintenance. Therefore, the District provided maintenance relieves those parcels of maintenance responsibility, which at a minimum, would be to provide weed, pest and litter control.

GENERAL BENEFIT

In evaluation of the general benefits provided by the frontage and slope landscape maintenance, it is concluded that no general benefit is provided for the following reasons.

1. The proposed landscape maintenance service would be in frontage areas and easements on private residential properties.
2. The City does not generally provide from generally available City funds, similar services in other similar areas. State and City laws hold the property owner responsible for maintenance associated with property frontage, at the owner's expense, therefore, general public funds are not expended in frontage areas.
3. Private property and the abutting frontages are required by City and State laws to be maintained in a safe, unobstructed condition by the property owner at that owner's expense. Therefore, general public funds are not expended for such maintenance.
4. The proposed service only benefits the properties included within the zone, not surrounding areas nor the general public.
5. There are no public properties in the proposed zone.

The special entrance 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; providing a general benefit through minimal maintenance of those islands. In evaluating the street design and traffic circulation patterns associated with 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 entrance islands are located; any general benefit associated with the landscaping is immeasurable. So from a public use perspective, the entrance 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 entrance islands are not in major thoroughfares, and; 3) no general, through traffic is intended.

6. **THE FORMULA** upon and by which the special benefit assessment is to be levied for the costs of maintenance and operation of all Zone G special landscaping is:

1. Equally apportion the benefit assessment among each and every residential lot except that any lot having a landscape easement or parkstrip shall be levied a five percent (5%) premium.
2. No public parcels are assessed.
3. No general benefit contribution is required.

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 1999-00 is established as the base year, having a base assessment of \$384,303. The base adjustment index is 165.5, which is the average annual Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-San Jose Area ("CPI") for the calendar year (1998) 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 \$384,030 base assessment by the 165.5 CPI for the 1998 base calendar year and then multiplying the resulting quotient, ~~\$2,320.42~~, by the CPI for the calendar year preceding the desired future fiscal year.
JAW
285,700
\$1,726.28 *JAW*

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: 2.8.00

Rajeev Bhat

Director of Public Works
City of San Jose

CITY OF SAN JOSE

ENGINEER'S REPORT

Formation of
ZONE H (CENTRAL AREA)
in
MAINTENANCE DISTRICT 15
(SILVER CREEK VALLEY)

FISCAL YEAR 1999-00

Filed in the office of the City Clerk of the City of San Jose on 2/8/00.

Patricia L. O'Keefe
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 2/8/00.

Patricia L. O'Keefe
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 4/11/00.

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

I, the Director of Finance of the City of San Jose, hereby certify that on _____ 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.

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, Articles XIIC and XIID of the California Constitution require 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 by Ordinance 25353 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 benefit received and 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. an assessment method;
6. a formula for apportioning the cost among the parcels;
7. an annual adjustment formula, if the assessments are to be levied more than one year;
8. an assessment roll with a property owners list, and;
9. a map or diagram showing the boundaries of the district and identifying the parcels in the district.

WHEREAS, on June 11, 1996, the San Jose City Council adopted its Resolution 66689, providing for the reauthorization of City of San Jose Maintenance District 15 (Silver Creek Valley) pursuant to the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts. District 15, through various benefit zones, provides for the special maintenance of amenities benefiting the District. As properties within District 15 were subdivided, additional zones (C and E) provided for special maintenance of amenities that were of benefit only to those areas.

WHEREAS, the owners of properties representing over 10 percent of certain lands lying within existing Maintenance District 15, intending to install special landscaping of benefit only to those lands, submitted to the City of San Jose a written petition pursuant to Municipal Code Chapter

14.15, to add a special zone of benefit in District 15 for said lands to provide additional special landscape maintenance of those added amenities.

WHEREAS, said lands lie wholly within the boundaries of Zone B, in the northerly half of Maintenance District 15 (Silver Creek Valley), which provides for maintenance and operation of landscaped median islands in Silver Creek Valley Road, Yerba Buena Road and Nieman Boulevard.

NOW, THEREFORE:

1. **THE BOUNDARY** of Maintenance District 15 proposed Zone H (Central Area), is shown on the map attached as Exhibit 3 and is generally described as those lands developed by Tracts 9055 and 9181, all lying within 2,500 feet of the intersection of Yerba Buena Road, Silver Creek Valley Road and Nieman Boulevard.

2. **THE IMPROVEMENTS** in proposed Zone H for which maintenance and operation would be provided are constructed by Tracts 9055 and 9181 in the locations shown on the map attached as Exhibit 3, include landscaping in slope areas (within landscape easements) and adjoining frontages along Yerba Buena Road, Silver Creek Valley Road and Nieman Boulevard.

Improvements may include but are not limited to: ornamental plantings including trees, shrubs, vines, groundcovers, flowers and lawns; irrigation, drainage and lighting systems, and; decorative paving, mulches, curbing, maintenance bands, seats, walls, fences, statuary and signs.

The improvements include all additions, improvements and enlargements thereto which may hereafter be made for proposed Zone H, and of benefit to the proposed Zone but not of benefit to the City of San Jose as a whole.

3. **THE MAINTENANCE AND OPERATION** of the improvements shall include the necessary administration, supervision, care, service, repairs, replacements, equipment, supplies, water, fuel, power and any and all other items necessary for safe and proper maintenance and operation thereof. Abutting soundwall and view fence maintenance is limited to graffiti removal, minor surface repairs and painting on the street side only.

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 below. This budget is for one full year of maintenance service beginning July 1, 2000. It was intended to fund the work through assessments collected with the 1999-00 County property taxes; at least one-half due by

December 10, 1999, any balance due by April 10, 2000. However, in the current schedule the assessment would be approved after the deadline for including assessments on the County tax roll, the District would directly invoice the property owners. Invoices shall have the same delinquency provisions as County tax bills and as near as possible, the same due dates.

SOURCE OF FUNDS		USE OF FUNDS	
Beginning Fund Balance:		Expenditures:	
Restricted Cash	\$0	Personal Services	\$11,000
Unrestricted Cash	\$0	Non Personal Services	\$90,000
Total Beginning Fund Balance	\$0	Equipment	\$4,000
		Total Expenditures	\$105,000
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	\$107,500	Restricted Cash	\$0
Interest	\$1,000	Unrestricted Cash *	
City General Benefit Share	\$0	Operating Funds	\$3,500
Total Revenue	\$108,500	Replacement Funds	\$0
		Total Ending Fund Balance	\$3,500
TOTAL SOURCE OF FUNDS	\$108,500	TOTAL USE OF FUNDS	\$108,500

* Subject to limitation are the Ending Fund Balances for Unrestricted Cash: Operating Funds; 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.

PARTIAL WORK - It is possible that all or part of the district maintenance does not commence on July 1, 2000 as intended. If all or part of the work is assumed early, an additional assessment shall be included with the 1999-00 assessment. The additional amount shall be equal to the estimated fraction of the work multiplied by the fraction of a year multiplied by the 1999-00 assessment. If all or part of the landscape maintenance is not expected to be accepted for district maintenance by July 1, 2000, the full 1999-2000 assessment may be reduced, either by a credit against the assessment, or a credit against future assessments. Finally, if the improvements are installed and acceptable to the District but the District for any reason cannot commence maintenance, the developer shall provide suitable interim maintenance until District assumption.

Upon submittal of proof of those interim expenses, the District may reimburse the developer in an amount not to exceed the District's estimate for that maintenance expenses.

5. THE METHOD OF ASSESSMENT upon and by which the special assessment is to be levied is based upon the 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. The 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 15 provides for several areas and types of benefit, so the resultant assessments are grouped by benefit zones. Each and every parcel in the District is assigned to zones according to the benefits received. Nearly half of the area (Zone A) within Maintenance District 15 was initially developed by Local Improvement District 88-203SJ. The property owner requested formation of the Improvement District to fund major public infrastructure capital costs, including about half of the median landscaping now within the Maintenance District. Also requested was formation of a maintenance district to fund the ongoing maintenance of these improvements because: (1) the level of improvements constructed exceeded the level of improvement typically maintained by the City in such an area, and; (2) a higher than normal City standard of maintenance was desired.

All properties within proposed Zone H lie wholly within existing Zone B of Maintenance District 15 and are assessed for the maintenance and operation of Zone B special landscaping in Silver Creek Valley and Yerba Buena Roads median islands.

The special landscaping improvements are to be installed by the developers as development progresses to enhance proposed Zone H and provide special benefits to the residents. The slopes within the landscape easement areas, increase the separation between the homes and the roadways and buffering the homes from those major thoroughfares. Most importantly, the slopes are needed to meet the contours of streets and lands abutting the District. The slope areas also allow storm runoff to drain away from the home sites. This subdivision could not exist without the slopes within special easement areas that allows the subdivisions' surface grades to meet adjacent land contours. Access for maintenance of the enhanced landscaping in the slope areas is allowed by the landscape easements.

The table below compares typical City maintenance services to Special District maintenance. Note that the City service is maintenance within street right-of-ways and this proposed district maintenance is primarily within easements abutting street right-of-ways. 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.

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

SPECIAL BENEFIT

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

Special benefits are provided to the residential parcels by the proposed Zone H frontage and slope landscape maintenance:

1. The frontage landscape maintenance and operation services meet the legal obligations of the property owners. State and City laws hold property owners individually responsible for the safe and proper maintenance of their frontages.
2. The slope landscaping maintenance and operation services, provided in easements over private property, meets the underlying legal and social obligations of property ownership.
3. The slope areas were needed for this development's grading and lotting to conform to abutting lands. None of these residential lots could occur without the special subdivision lotting and drainage plan.
4. By providing special district landscape maintenance and operation services within easements, the owners avoid the expense of establishing common areas and forming a registered owners association to fund and administer the services.
5. Special landscaping that is well maintained and readily accessible to the properties within a neighborhood may be enjoyed by all the owners and visitors without the owners expending the effort of individually installing and maintaining such improvements.
6. The special landscaping and maintenance reduces the noises, smells and visual impacts of traffic and other activities in the adjoining areas, thereby improving the physical environment within a neighborhood, making it more livable and desirable.
7. The special landscaping and maintenance, by increasing separation of the neighborhood from the major streets, enhances a neighborhood's identity, unity, serenity and security.
8. The presence of special landscaping that is well maintained and available for the enjoyment of the property owners 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.
9. The special landscaping and maintenance, by enhancing the attractiveness of a neighborhood, increases desirability for potential home buyers, thereby improving salability and value.
10. When a community's infrastructure are available, safe, clean, and well maintained, its desirability and value are enhanced. Unappealing, unsafe or damaged common facilities decreases the community's desirability and ultimately, its value.
11. Attractive, well maintained special landscaping fosters a sense of community and pride in a neighborhood. This tends to influence the individual property owners, encouraging improved landscaping on and maintenance of their property, increasing the attractiveness and desirability of all property in the neighborhood.

12. Special landscaping disease and weed control reduces the probability of damaging and costly insect or weed infestations spreading to properties within a neighborhood.

In evaluating the special benefit that Zone H may provide to public property, there are no public parcels within the Zone. Adjoining the westerly Zone H boundary is public school site. It has neither easements nor abutting parkstrips on a major street so no service is provided by the proposed zone and it is concluded that there is no special benefit received by public agencies from Zone H.

In apportioning the special benefit assessment, the following considerations lead to a conclusion that the special benefits be apportioned between each and every residential lot equally, excepting that the lots having landscape easements receive an added five percent assessment premium:

1. In developing the subdivision, the sense of one unified neighborhood is enhanced by land grading, lot arrangements and special landscaping that buffers perimeter lots from the adjacent major streets and groups those perimeter homes with interior streets and homes.
2. The slopes and easement areas are provided to facilitate subdividing the land into to the allowed number of lots and conform final elevations to abutting lands and existing major streets. They are not designed to increase benefit to any particular lot or lots.
3. The slopes and easement areas vary to allow lots to fit grading constraints. Consequently, the areas of special landscaping vary. The landscaping is not designed to provide different levels of benefit, it is designed to unify a neighborhood and buffer it from major streets.
4. The landscaping is designed by the builders as a special feature of the development, intended to identify and enhance the entire neighborhood, equally benefiting each and every lot; no special focus or emphasis is given to specific lot or group of lots.
5. By installing special landscaping in the easement areas, rather than allowing each owner of the areas to use and construct improvements, a cohesive, unified community is created.
6. Every property deed contains Conditions, Covenants and Restrictions (CC and R's) that are intended to maintain a consistent community appearance and use, fostering a unified sense of identity and community.
7. All parcels within the development are similar. All lots are zoned for single family residential, being of the larger City size categories. The homes are larger than average City housing, being the among the larger San Jose tract built homes. This uniform land use contributes to a determination that the benefits are essentially equal.
8. In setting home sale prices, the builder charges premiums for added benefits and features such as upgraded materials, larger homes or lots and prime locations such as secluded cul-de-sac lots or view lots. There is no premium for those lots having the special landscaping areas because the buyers, seeing no added benefit, will not pay premiums for easements.
9. For most residents, the landscaped features will be considered an enhancement of the area; a pleasant view as they come and go in their daily routines. All properties are equally restricted in use of the special areas, so no feature could be considered to be

available to use significantly more extensively by some of the residents. So, facility use, being approximately equal, further contributes to the determination that the benefits are essentially equal.

10. Proximity to the facilities provides no reason to differentiate benefit. All residents pass the special areas, proximity has minimal effect on their passages. Parcels having the special landscaping obviously are nearer the improvements but the positive impact of the added landscaping is negated by the negative impacts of the adjoining major streets.
11. Parcels having landscape easements retain the underlying title to the land, but gain no measurable difference in benefit above the other parcels within the subdivision because access to and use of that land is denied both legally by the easement and physically by the slopes, plantings and permanent fencing installed at the easement borders.
12. However, parcels having the landscape easements, in retaining underlying title to the land, would be responsible for maintaining that area if the District did not provide maintenance. Therefore, the District provided maintenance relieves those parcels of maintenance responsibility, which at a minimum, would be to provide weed, pest and litter control.

GENERAL BENEFIT

In evaluation of the general benefits provided by the frontage and slope landscape maintenance, it is concluded that no general benefit is provided for the following reasons.

1. The proposed landscape maintenance service would be in frontage areas and easements on private residential properties.
2. The City does not generally provide from generally available City funds, similar services in other similar areas. State and City laws hold the property owner responsible for maintenance associated with property frontage, at the owner's expense, therefore, general public funds are not expended in frontage areas.
3. Private property and the abutting frontages are required by City and State laws to be maintained in a safe, unobstructed condition by the property owner at that owner's expense. Therefore, general public funds are not expended for such maintenance.
4. The proposed service only benefits the properties included within the zone, not surrounding areas nor the general public.
5. There are no public properties in the proposed zone.

6. THE FORMULA upon and by which the special benefit assessment is to be levied for the costs of maintenance and operation of all Zone H special landscaping is:

1. Equally apportion the benefit assessment among each and every residential lot except that any lot having a landscape easement or parkstrip shall be levied a five percent (5%) premium.
2. No public parcels are assessed.

3. No general benefit contributions are required.

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 1999-00 is established as the base year, having a base assessment of ~~\$101,215~~. The base adjustment index is 165.5, which is the average annual Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-San Jose Area ("CPI") for the calendar year (1998) 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 ~~101,215~~ base assessment by the 165.5 CPI for the 1998 base calendar year and then multiplying the resulting quotient, ~~\$611.57~~, by the CPI for the calendar year preceding the desired future fiscal year.

\$649.55 per 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 amenable 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: _____

2. 8. 00

Rajeev Bhatnagar

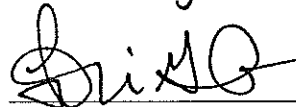
Deputy Director of Public Works
City of San Jose

CITY OF SAN JOSE
ENGINEER'S REPORT

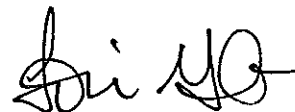
**ANNEXATION AREA NO. 1 AND
FORMATION OF ZONE I (CADWALLADER)
TO
MAINTENANCE DISTRICT 15
(SILVER CREEK VALLEY)**

FISCAL YEAR 2012-2013

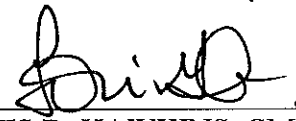
Filed in the office of the City Clerk of the City of San José on August 1, 2012.


Assistant
for DENNIS D. HAWKINS, CMC
City Clerk

This Engineer's Report was preliminarily approved by the City Council of the City of San José at a meeting thereof on August 7, 2012.


Assistant
for DENNIS D. HAWKINS, CMC
City Clerk

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 October 30, 2012.


ASSISTANT
for DENNIS D. HAWKINS, CMC
City Clerk

I, the Acting Director of Finance of the City of San José, hereby certify that on _____, the assessments contained in this Engineer's Report were delivered to the officer of the County of Santa Clara designated by law to post City special assessments upon the property tax roll on which they are collected.

JULIA H. COOPER
Acting Director of Finance

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.

WHEREAS, Articles XIII C and XIII D 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 provides that public property is subject to assessments.

WHEREAS, Article XIII D 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 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.

WHEREAS, on March 17, 2009 the City of San José Council reconfirmed the Median Island Landscape Program policy adopted on June 9, 1994 that only Type 1 landscaping be installed on City streets unless an alternate funding source has been identified for maintenance. Type 1 includes trees and paved surfaces as the City maintained standard (with an exception for downtown sites).

WHEREAS, on August 4, 1992 the City Council of San José adopted its Resolution Number 63973 providing for the establishment of the Maintenance District 15 (Silver Creek Valley).

WHEREAS, on June 20, 1995 the City Council of San José adopted its Resolution Number 66024 providing for the reformation of Maintenance District 15 (Silver Creek Valley) pursuant to the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts, which provides for the reforming of districts established under Chapter 14.16 Part 15.

WHEREAS, on June 11, 1996, the San José City Council adopted its Resolution 66689, providing for the reauthorization of Maintenance District 15 (Silver Creek Valley), pursuant to the provisions of Municipal Code Chapter 14.15, which was revised to conform to the requirements of California Proposition 218.

WHEREAS, Maintenance District 15, through various benefit zones, provides for the special maintenance amenities benefiting the District. As properties were subdivided, zones (A, B, C, E, F, G and H) provided for special maintenance of amenities that were of benefit only to those areas.

WHEREAS, a portion of Tract 10057 lies within the boundaries of Zone B, in the northerly half of Maintenance District 15 (Silver Creek Valley), which provides for the maintenance and operation of landscaped street islands in Silver Creek Valley Road, Yerba Buena Road and Nieman Boulevard.

WHEREAS, a portion of Tract 10057 outside the boundaries of Maintenance District 15 (Silver Creek Valley) seeks to gain street access via Nieman Boulevard.

WHEREAS, the owners of Tract 10057 intend to install special landscaping and storm detention features of benefit to only Tract 10057 and to add a special zone of benefit in Maintenance District 15 (Silver Creek Valley).

NOW, THEREFORE:

1. **THE BOUNDARY** of proposed Annexation Area No. 1 to Maintenance District 15 (Silver Creek Valley), as shown on the diagram attached as Exhibit 3, is generally described as: a line approximately 110 feet south of the southerly border of Tract No. 6699 to the north, the easterly border of Tract No. 8971 on the west, the northerly border of Tract No. 9031 on the south, and Cadwallader Avenue on the east. The boundary of Maintenance District 15 proposed Zone I (Cadwallader), as shown on the diagram attached as Exhibit 3, is generally described as: a line approximately 274 feet south of the southerly border of Tract No. 6699 to the north, Nieman Boulevard on the west, the northerly border of Tract No. 9031 on the south, and Cadwallader Avenue on the east. The boundary of land proposed to be annexed to Zone B of Maintenance District 15 (Silver Creek Valley), as shown on the diagram attached as Exhibit 3, is generally described as: a line approximately 274 feet south of the southerly border of Tract No. 6699 to the north, the easterly border of Tract No. 8971 on the west, the northerly border of Tract No. 9031 on the south, and Cadwallader Avenue on the east.

2. **THE IMPROVEMENTS** within the District for which maintenance and operation exist in various degrees throughout the District and have been divided into separate zones. The improvements associated with the Annexation and new Zone are described below.

Zone B

The areas proposed to be maintained include: street island landscaping on Silver Creek Valley Road from Yerba Buena Road south to approximately 1,580 feet northerly of Farnsworth Drive, on Yerba Buena Road and on Nieman Boulevard; sidewalks, park strip landscaping (strip areas within the right-of-way behind curbs or sidewalks) and slope landscaping (open space areas within public easements) along Silver Creek Valley Road, Yerba Buena Road, and Nieman Boulevard.

Zone I (Cadwallader)

The areas to be maintained in proposed Zone I for which maintenance and operation would be provided are to be constructed by Tract 10057 and include: landscaping in slope areas (within landscape easements) and adjoining frontages along Nieman Boulevard and Cirelli Drive; entrance landscaping at Cirelli Drive; street trees along the frontage landscaping; storm system and vault maintenance; fencing facing the Cadwallader right-of-way adjacent to wetlands; and all additions, improvements and enlargements thereto which may hereafter be made for the district, and of benefit to the district but not to the benefit to the City of San José as a whole. Improvements may include, but are not limited to: storm water vaults, bioretention areas, ornamental plantings including trees, shrubs, vines, groundcover, flowers and lawns; irrigation, drainage, and lighting systems; and decorative paving, curbing, maintenance bands, rocks, mulches, seats, walls, fences, signs, and statuary. Specifically excluded are: sidewalk, fence, or soundwall replacement or major repairs, with exception to the fence adjacent to the street side of wetlands.

3. THE MAINTENANCE AND OPERATION shall include the necessary servicing, repairs, replacements, construction of additional facilities, equipment, supplies, fuel, water, power, electric current, other utilities, care supervision, inspection, administration, and any and all other items necessary for the safe and proper maintenance and operation of the improvements.

4. THE BUDGET for the costs and expenses of maintaining and operating any and all of the public improvements for upcoming Fiscal Year 2012-2013 is shown on the following table.

MAINTENANCE DISTRICT 15 - FUND (368)		FISCAL YEAR 2012-2013	
SOURCE OF FUNDS	TOTAL	USE OF FUNDS	TOTAL
Beginning Fund Balance:		Expenditures:	
Restricted Cash	0	Personal Services	2,400
Unrestricted Cash	0	Non-Personal Services	63,649
Total Beginning Fund Balance	\$0	Overhead	1,080
		Worker's Comp Claims	0
		Total Expenditures	\$67,129
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	53,650	Restricted Cash	0
Interest	0	Unrestricted Cash *	
City General Benefit Share	22,119	Operating Funds	2,592
Total Revenue	\$75,769	Replacement Funds	6,048
		Total Ending Fund Balance	\$8,640
TOTAL SOURCE OF FUNDS	\$75,769	TOTAL USE OF FUNDS	\$75,769

* 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. The 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 15 provides for several areas and types of benefit, so the resultant assessments are grouped by benefit zones. Each and every parcel in the District is assigned to zones according to the benefits received. Nearly half of the area (Zone A) within Maintenance District 15 was initially developed by Local Improvement District 88-203SJ. The property owner requested formation of the Improvement District to fund major public infrastructure capital costs, including about half of the street landscaping now within the maintenance district. They also requested a maintenance district formation to fund the ongoing maintenance of these improvements because: (1) the level of improvements constructed exceeded the level of improvements typically maintained by the City in such a area, and; (2) a higher than normal City standard of maintenance was desired.

A portion of Tract No. 10057 lies within existing Zone B of Maintenance District 15 and is assessed for the maintenance and operation of Zone B special landscaping on Silver Creek Valley and Yerba Buena Road street islands. A greater portion of Tract No. 10057 which consists of two cul-de-sacs is being annexed into Maintenance District 15 and gains access via Nieman Boulevard, therefore also benefitting from the special landscaping in Silver Creek Valley and Yerba Buena Road.

The special landscaping improvements are installed by the developer to enhance proposed Zone I and provide special benefit to the residents. The slopes within the landscape easement areas along Nieman Boulevard elevate the home sites above Nieman Boulevard, increasing the separation from the roadway and buffering the homes from that major thoroughfare. More importantly, the slopes are needed to meet the contours of streets and lands abutting the District. The slope areas also allow storm drain runoff to drain away from the home sites into storm vaults. Although City design standards prefer that lots to drain to the front, these subdivisions could not exist without the rear lot drainage in some of the slope areas that allows the subdivisions' surface grades to meet adjacent land contours.

Hydromodification Management (HM) controls are required for developments in the Santa Clara Valley to address the increase in runoff flow and volume as a result of the development. If a project creates and/or replaces one acre or more of impervious surface and is not specifically exempted, then HM controls must be implemented so that the increase in runoff flow and volume are managed so that post-project runoff does not exceed estimated pre-project rates and durations. The storm vaults and bioretention cells for this project are designed and installed to serve only these properties and to be in compliance with the National Pollutant Discharge Elimination System permit issued to the Santa Clara Valley Urban Runoff Pollution Prevention Program by the San Francisco Bay Regional Water Quality Control Board.

A landscaped emergency vehicle access (EVA) road with a water treatment feature was installed by the developer for the sole benefit of the tract due to the limited access for emergency vehicles to the cul-de-sac parcels. The EVA allows emergency vehicles access to and from Cadwallader Avenue to the Oxsen Court cul-de-sac. An isolated wetland feature is located on the project site and must be protected appropriately since wetlands provide habitat for various species of aquatic and terrestrial plants and animals. Arrangements have been made for an environmental conservation organization to maintain the wetlands, relieving the property owners of the responsibility. The district will provide for the maintenance of a fence adjacent to the street to provide an exclusion barrier while still allowing access to the private property from Cadwallader Avenue to perform maintenance

duties. Access for maintenance of the enhanced landscaping in the slope areas, storm treatment features and EVA are allowed by separate respective easements.

BENEFIT APPORTIONMENT

The special versus general benefit evaluation in the following table, of typical Type 1 landscape street island maintenance services, is an aid in determining general benefits and the associated costs.

COMPARISON OF CITY AND SPECIAL DISTRICT MAINTENANCE		
ITEM	CITY – GENERAL TYPE 1	SPECIAL DISTRICT TYPE 2
DESIGN	Trees only	May include all or part of: trees, shrubs, ground cover, turf, mulches/crushed rock, lighting, pathways, decorative walls & signage, fountains and/or structures
SERVICE FREQUENCY	Twice annually	Weekly
TREES		
Trimming (clearance)	None	As needed
Trimming (structural)	None	Every 3 years
Replacement	None	As needed
SHRUBS and GROUND COVER		
Pruning	None	Yearly (and as needed)
Fertilize	None	2 times per year (or as needed)
Replacement	None	As needed
Flowers	None	Seasonal
TURF		
Mowing	None	Weekly
Fertilize	None	3 times per year
WEED CONTROL		
Pre-emergent	Yearly	Yearly (and as needed)
Contact Spray	Yearly	As needed
Hand Removal	None	As needed
DEBRIS REMOVAL	Twice annually	Weekly
IRRIGATION REPAIR	Adjusted every 6 months / 2 weeks for complaint response (Some are just abandoned)	Weekly
MULCH/BARK/ROCK		
Grooming	None	As needed
Replacement	None	As needed
GRAFFITI REMOVAL	Within 1 - 2 weeks	Within 1-2 days
STREET ISLAND HARDSCAPE		
Cleaning	Safety only	As needed
Repair	Safety only	As needed

The table, however only represents the street island landscaping. Further consideration of special versus general benefit must also take into account the storm system and vault components of the District services.

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

Special benefits provided by the District maintenance:

1. Storm vault and bioretention facilities installed to address a project's hydromodification requirements are typically located solely on private property and would need to be maintained by the property owners or a homeowner's association of the property owners.
2. The bioretention cells have been allowed to be installed in the public right-of-way in anticipation of the district maintaining the facilities, thereby relieving the property owners of the tract as a whole from the maintenance responsibility.
3. The EVA and the landscape along the EVA are located on private property and therefore the maintenance would be the responsibility of the property owners.
4. Maintenance of the storm vault, bioretention facilities and EVA, relieve the property owners of the maintenance and the necessity of forming an owner's association and establishing a board in order to manage the maintenance for the development.
5. The frontage landscape maintenance and operation services meet the legal obligation of the property owners. State and City laws hold property owners individually responsible for the safe and proper maintenance of their frontages.
6. The slope landscaping maintenance and operation services, provided in easements over private property, meets the underlying legal and social obligations of property ownership.
7. Special amenities and landscaping that is well maintained and readily accessible to the properties may be enjoyed by all owners, and visitors without the owners expending the effort of individually maintaining, replacing and repairing the improvements.
8. The Nieman Boulevard special landscaping and maintenance reduces the noise, pollution and visual impact of traffic and other activities in the adjoining areas, thereby improving the physical environment within a neighborhood, making it more livable, viable, desirable and providing a sense of exclusivity.
9. The special landscaping and maintenance, by increasing separation of each neighborhood from the major street, enhances a neighborhood's identity, unity, serenity and security.
10. The presence of special landscaping that is well maintained and available for the enjoyment of the property owners 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.

11. The special landscaping and maintenance, by enhancing the attractiveness of a neighborhood, increases desirability for potential home buyers, thereby improving salability.
12. Attractive, well maintained special landscaping fosters a sense of community pride in a neighborhood. This tends to influence the individual property owners, encouraging improved landscaping and maintenance of their property, increasing the attractiveness and desirability of all property in the neighborhood.

Apportionment of Special Benefit:

In apportioning the special benefit assessment for the maintenance of the special amenities, the following list of considerations lead to a conclusion that the special benefit for storm vault, bioretention and EVA be apportioned equally between each and every residential unit. For parcels that gain access from Nieman Boulevard, the following list of considerations lead to a conclusion that the special benefit for Zone B landscaping on street islands, park strips and slopes within public easements, entrance landscaping at Cirelli Drive and slope landscaping along Nieman Boulevard be apportioned equally between each and every residential unit with parcels having an easement for such improvements be assigned a premium for added proximity benefit.

1. The parcels within the District are similar. All lots are zoned single family residential. This uniform land use contributes to a determination that the benefits are essentially equal.
2. Another consideration is the use of the maintained facilities.
 - a. The storm improvements and associated maintenance are needed to treat the runoff from all of these similar residential units. The EVA provides an additional access point for emergency vehicles to reach the parcels or residents in need of assistance. Facility use is approximately equal, further contributing to the determination that the benefits are essentially equal.
 - b. For most residents that gain access from Nieman Boulevard, the landscaped features will be considered an enhancement of the area and a pleasant view as they come and go in their daily routines. The landscape and street tree improvements use is approximately equal, further contributing to the determination that the benefits are essentially equal.
3. In considering proximity to the facilities, it is concluded that there the special benefit received by each property is inherently equal.
 - a. All parcels will have contributed to the increased post-project storm runoff from the development of this tract and will also have the reassurance that emergency vehicles will be able to reach their property if access from Cadwallader Avenue is necessary.
 - b. All residents that gain access from Nieman Boulevard pass through the entrance areas, proximity has minimal effect on their travels.
4. Parcels having an easement for entrance and slope landscaping along Nieman Boulevard receive a slight added benefit from the District relieving the owner of the responsibility of maintaining the special amenities. This additional benefit, however, is offset a bit because the easement allows the improvements to be installed on their property for the benefit of the community.

Evaluation of the special benefit received by all parcels within the District included an analysis to assure that no assessment would exceed proportional special benefit conferred on any parcel within the District. The special benefit for all services provided by the District greatly exceeds the annual assessment amount of \$53,649.90 as does the corresponding benefit to each parcel. This included the use of information, statistics and valuations from the California Urban Forests Council, Center for Urban Forest Research, the Journal of Arboriculture, the U. S. Forest Service and the Council of Tree and Landscape Appraisers. As an example, just the valuation of average annual benefit for the District maintained street trees (\$178.57/tree) without even considering the value of relieving the owner of the responsibility for the tree or trees in front of their property would exceed \$3,200 annually representing a dramatic benefit over the \$375 budget for that single item in the list of all services being delivered.

General benefits provided by the District maintenance include services for storm vault and bioretention cell maintenance due to the impervious area created for the public right-of-way by the development. In evaluating the general benefit associated with street island landscaping, the traffic circulation patterns associated within the District area were evaluated. It was concluded that the general benefit to traffic passing through the District is primarily associated with the paved roadway portions, traffic signals and signs. Any general benefit associated with the landscaping is immeasurable. Therefore, from a public use perspective, the street island landscaping provides only a direct and special benefit to those parcels in the area as discussed in the "Special Benefit" section above. However, the City of San Jose usually promotes the maintenance of street island landscaping on major collector streets throughout the City. The standard level of landscaping is limited to a non-organic ground cover usually aggregate rock or similar material, trees, and an irrigation system. The City's standard level of landscape maintenance includes traffic clearance trimming on 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 the equivalent of the City's cost to perform street island maintenance for the area of street islands funded by the District. All costs above this minimum maintenance level are of special and direct benefit to the parcels in the District. The EVA was installed by the developer to serve the potential needs of the parcels within Tract 10057 and is located on private lands. The maintenance of the EVA is of a special and direct benefit to the parcels within the tract because the access was provided for their benefit, and therefore, no general benefit is associated with this maintenance cost.

In evaluating the general benefit associated with the maintenance and operation provided, it is concluded that there is general benefit. The general benefit is not assessable and must be covered by a public agency contribution for that benefit.

1. A portion of the impervious surface created by this project is the public right-of-way.
2. In similar areas throughout the City, the City is implementing mitigation efforts to address the runoff flows due to new or modified City's infrastructure network.
3. The storm vault and bioretention cells treat the runoff from the private lands as well as from the public right-of-way. The proportionate share of costs of maintaining the storm vaults and bioretention cells for the right-of-way runoff represents the general benefit within the District, so the City must contribute for that portion of the costs to the District.

4. Silver Creek Valley Road and Yerba Buena Road was designed and constructed as major thoroughfares.
5. The City proposes street islands for traffic control on major thoroughfares.
6. The original traffic model forecast and current conditions confirm significant general traffic flowing through the traffic circulation patterns within the District.
7. In similar areas throughout the City, minimal island landscaping is provided, consisting of trees and a crushed rock surface. It is maintained by the City, funded from generally available funds.
8. The cost of providing this minimum service represents the general benefit within the District. It underlies the costs of the enhanced landscape service provided by the District, so the City must contribute for that portion of the costs to the District.

This general benefit value for the storm vault and bioretention cells is based on the quantity of impervious area created and/or replaced as public property by the development of Tract No. 10057. In this case, it is determined by multiplying the quotient of the square footage of impervious public right-of-way (approximately 96,450 square feet) by the total square footage of impervious area created and/or replaced by this development (approximately 247,891 square feet) with all costs associated with the maintenance of the storm system. This general benefit value for the street islands is based on the quantity of the standard improvements that would be constructed and maintained by the City in the event the District was not in place. It is evaluated by compiling the square footage of standard improvements (approximately 96,700 square feet) and applying it to the average cost for maintenance of such items which is approximately \$0.08 per square foot. The general benefit contribution for the Zone B component has already been recognized and applied to the existing District through the annual budgeting process for fiscal year 2012-2013.

6. **THE FORMULA** to apportion the special benefit assesses each parcel in proportion to the special benefit each property receives from the improvements based on proximity and access to the maintained improvements. The amount of the general benefit contribution is added to the Source and Use of Funds for accounting purposes. These funds are over and above the cost of the District services as only special benefit is assessable although the contribution is shown for the purposes of budgeting and to solidify and acknowledge funds contributed to cover the base level of service.

The Equivalent Dwelling Unit Yield for a parcel is determined based on the planned number of residential lots within a Zone. One dwelling unit represents one residential property. The City Planning, Building, and Code Enforcement Department uses the San Jose General Plan guidelines to calculate the maximum number of dwelling units allowed upon a subdivision not yet subdivided into residential lots. The resulting amounts are Dwelling Unit Yields. The Dwelling Unit Yield is adjusted when required to represent City zoning changes and the direct benefit to a particular property from the maintained public facility. The adjusted yield is called the Equivalent Dwelling Unit Yield (EDUY).

1. Equally assess the special benefit costs for storm drain, bioretention and EVA maintenance to each and every residential lot assessed at 1.0 EDUY except that any lot having an easement for said service shall be levied a five percent (5%) premium.
2. Equally assess the special benefit costs for entrance landscaping at Cirelli Drive and slope landscaping along Nieman Boulevard to each and every residential lot assessed at 1.0 EDUY that gains access from Nieman Boulevard except that any lot having an easement for said service shall be levied a five percent (5%) premium.
3. Assess the special benefit costs for Zone B landscaping on street islands, park strips and slopes based on each parcel's EDUY.


The general benefit allocation for the storm vault maintenance service is valued to be \$22,118.55, which is determined from the general benefit value identified in Section 5 above. This amount will be contributed to the District from the City's generally available funds and is over and above the assessment amounts assessed by the District upon properties within the District.

7. **THE ANNUAL ADJUSTMENT FORMULA**, upon approval of a majority vote of the property owners, sets maximum limits to the assessments in future annual District budgets. The Annual Adjustment shall be equal to the change in the average annual Consumer Price Index, All Urban Consumers, for the San José - San Francisco - Oakland Area. Assessments for any future fiscal year may not exceed the maximum Annual Adjustment; the maximum assessment is calculated by dividing the exiting fiscal year's maximum assessment by the CPI for the calendar year preceding the exiting fiscal year and then multiplying the resulting quotient 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.

8. **INTERPRETATION** and application of any section of this document shall be left to the City's discretion. In addition, the City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Assessment Formula or Annual Adjustment Formula.

NOW, THEREFORE, I, DAVID SYKES, 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: 7/16/12



DAVID SYKES
Director of Public Works