

Downtown San José Property-Based Business Improvement District

DRAFT Engineer's Report



**San José, California
February 2022**

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*Prepared pursuant to the State of California
Property and Business Improvement District Law of 1994
and Article XIID of the California Constitution
to create a property-based business improvement district*

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ENGINEER'S STATEMENT

This Report is prepared pursuant to Article XIID of the California State Constitution and the State of California Property and Business Improvement District Law of 1994 (California Streets and Highways Code § 36600 et seq.) (the "PBID Law").

The Downtown San José Property-Based Business Improvement District ("PBID") will provide activities either currently not provided or are above and beyond what the City of San José ("City") provides. These activities will specially benefit each individual assessable parcel in the PBID. Every individual assessed parcel within the PBID receives special benefit from the activities identified under Section B of this Report. Only those individual assessed parcels within the PBID receive the special benefit of these proposed activities; parcels contiguous to and outside the PBID and the public at large may receive a general benefit, as outlined in Section E. The cost to provide general benefits, if any, will be funded from sources other than special assessments.

The duration of the proposed PBID is ten (10) years, commencing January 1, 2023. An estimated budget for the PBID improvements and activities is set forth in Section D. Assessments will be subject to an annual increase of up to 5% per year to address changes in the cost of providing the PBID services. In addition, assessments may be increased up to an additional 5% with those revenues being specifically allocated to a capital reserve account to fund/augment the Beautification and Street Life services, including matching funds or leveraging capital improvement projects. The determination of annual adjustments in assessment rates will be subject to review and approval by the PBID Owners' Association and City Council and will be subject to the requirements of the PBID Law. Funding for the PBID improvements and activities shall be derived from a property-based assessment of each specially benefitted parcel in the PBID. A detailed description of the methodology for determining the proportional special benefit each individual assessable parcel receives from the service and the assessment for each parcel is set forth in Section F.

I hereby certify to the best of my professional knowledge that each of the identified assessable parcels located within the PBID will receive a special benefit over and above the benefits conferred to those parcels outside of the PBID boundary and to the public at large and that the amount of the proposed special assessment is proportional to, and no greater than the special benefits received.

Respectfully submitted,



Terrance E. Lowell, P.E.

SECTION A: LEGISLATIVE AND JUDICIAL REVIEW

Property and Business Improvement District Law of 1994

The PBID Law is the legislation that authorizes the City to levy assessments upon real property for the purposes of providing improvements and activities that specially benefit each individual assessed parcel in the PBID. The purpose of the PBID is to encourage commerce, investment, and business activities. In order to meet these goals PBIDs typically fund activities and improvements, such as, enhanced safety and cleaning, and economic enhancements. Unlike other assessment districts which fund the construction of public capital improvements or maintenance thereof, PBIDs provide activities and improvements “to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts.” (Streets and Highways Code Section 36601(b)). The improvements and activities funded through the PBID are over and above those already provided by the City within the PBID’s boundaries. Each of the PBID activities or improvements is intended to increase building occupancy and lease rates, to encourage new business development, attract businesses that serve the community, and improve the quality of life.

Specifically, the PBID Law defines “Improvements” and “Activities” as follows:

"Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years...¹

"Activities" means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses or real property in the district.*
- (b) Furnishing of music in any public place within the district.*
- (c) Promotion of tourism within the district.*
- (d) Marketing and economic development, including retail retention and recruitment.*
- (e) Providing safety, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.*
- (f) Activities which benefit businesses and real property located in the district.²*

Article XIID of the State Constitution

Article XIID of the State Constitution determines the way local agencies enact local taxes and levying of assessments on real property. It states, in relevant part, that:

(a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or

¹ California Streets and Highways Code, Section 36610.

² California Streets and Highways Code, Section 36613.

used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.³

"Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."⁴

Judicial Guidance

Since the enactment of Article XIID, the courts have rendered opinions regarding various aspects of Article XIID. The notable portions of cases that apply to assessment districts in general and this PBID in particular are noted below.

"The engineer's report describes the services to be provided by the PBID [i.e., the PBID]; (1) security and homeless outreach, (2) maintenance (e.g., street sweeping, gutter cleaning, graffiti removal), and (3) marketing and special events. They are all services over and above those already provided by the City within the boundaries of the PBID. And they are particular and distinct benefits to be provided only to the properties within the PBID, not to the public at large—they 'affect the assessed property in a way that is particular and distinct from [their] effect on other parcels and that real property in general and the public at large do not share.'"⁵

"...separating the general from the special benefits of a public improvement project and estimating the quantity of each in relation to the other is essential if an assessment is to be limited to the special benefits."⁶

"...the agency must determine or approximate the percentage of the total benefit conferred by the service or improvement that will be enjoyed by the general public and deduct that percentage of the total cost of the service or improvement from the special assessment levied against the specially benefitted property owners."⁷

"...even minimal general benefits must be separated from special benefits and quantified so that the percentage of the cost of services and improvements representing general benefits, however slight, can be deducted from the amount of the cost assessed against specially benefitting properties."⁸

The contents of this Engineer's Report are prepared in compliance with the above noted PBID Law, the Article XIID of the State Constitution and the judicial opinions.

³ Section 4, Article XIID of the State Constitution.

⁴ Section 2 (i), Article XIID of the State Constitution.

⁵ *Dahms v. Downtown Pomona Property and Business Improvement District* (2009) 174 Cal.App. 4th 708, 722.

⁶ *Beutz v. County of Riverside* (2010) 184 Cal. App. 4th 1516, 1532.

⁷ *Golden Hill Neighborhood Association, Inc. v. City of San Diego* (2011) 199 Cal.App. 4th 416, 438.

⁸ *Golden Hill Neighborhood Association, Inc. v. City of San Diego* (2011) 199 Cal.App. 4th 416, 439.

SECTION B: IMPROVEMENTS AND ACTIVITIES

The PBID Renewal Committee collectively determined the priority for improvements and activities that the PBID will deliver. The primary needs as determined by the property owners are safety, cleaning, beautification, and economic vitality. Specifically, the Downtown San José PBID shall provide the following activities.

Environment

To respond to stakeholder priorities and guiding principles to make the downtown safer, cleaner and more beautiful, the renewed PBID will fund an expansion of the existing Groundwerx cleaning and ambassador program and implement additional services. The following is a multi-dimensional approach to execute aforementioned principles.

Clean Team:

The Clean Team consistently deals with maintenance issues within the PBID by providing the following cleaning and maintenance activities:

- **Sidewalk Maintenance:** Uniformed, radio-equipped personnel provide sidewalk pan and broom, removing trash and debris from sidewalks, curbs and gutters as well as public spaces of the PBID, and clean all sidewalk hardscape such as trash receptacles, benches, and parking meters.
- **All-Terrain Litter Vacuum (ATLV):** The ATLV sweeps and cleans the gutters and protected bike lanes as well as removing leaves that clog up the storm drains.
- **Trash Collection:** Collector truck personnel picks up trash from sidewalk trash receptacles as needed. They are also dispatched to collect large bulky items illegally dumped in the PBID.
- **Sidewalk Pressure Washing:** Pressure wash all sidewalks and public spaces on an as needed basis with areas of high pedestrian traffic receiving the highest concentration and respond to “hot spot” services calls.
- **Graffiti Removal:** Groundwerx can remove graffiti using solvent and pressure washing. The PBID will maintain a zero-tolerance graffiti policy. All tags will aim to be removed within 48 hours of notification.



The table below is the projected deployment schedule for the Clean Team:

Clean Team:	Coverage
Pressure Washing	6-12 times/year
Mechanical Cleaning	Daily As Needed
Pan & Broom	20 Hours Daily
Graffiti Removal	Daily As Needed
All-Terrain Litter Vacuum (ATLV)	Daily and As Needed
Light Landscape/Weed Removal	As Needed
Maintenance of PBID funded beautification elements	Landscape Watering 5 Days/week
Special Projects	As Needed
Tree trimming	Approx ¼ of street trees/year
Other maintenance services such as pole painting, paver grout replenishment and refinishing street benches	As Needed
<ul style="list-style-type: none"> Under the proposed service deployment model there are 27.85 FTEs. This number may vary due to changes in service levels. 	



Social Impact Team:

Addressing those that are experiencing homelessness and responding to disruptive behaviors from street populations is one of the top priorities among property and business owners. The Social Impact Team is a newly funded service for the PBID. To assist this program the PBID Owners' Association may fund a multi-faceted approach that enhances the resources already provided by the business community, City, County of Santa Clara, and social service agencies, e.g., Path. The PBID may hire a Social Impact Manager that is a trained social worker with relevant experience to bring strong technical expertise to the team. Subsequently, front line staff, i.e., outreach case managers that would be deployed on the streets, may be hired. The Social Impact Team is estimated to employ approximately 5.0 FTEs with daily coverage.

The PBID Owners' Association will have flexibility to implement elements of the program, seek other funding sources that are available to leverage, apply for grants, integrate best practices or any other service that is needed to respond to ongoing needs. The Social Impact Team will

supplement, not replace, other ongoing social services provided by the City, County, or social service agencies.

Safety Ambassadors:

With safety as one of the top priority of ratepayers, the PBID renewal builds more capacity into this program by funding additional ambassadors. The Safety Ambassadors provide services to the individual parcels located within the PBID. The Ambassador services include greeting and providing information to Downtown pedestrians and ground floor businesses, reporting messes and graffiti tags, reporting misdemeanor crime, responding to loitering calls, aiding with safety escorts, coordinating with the Social Impact Team, and promoting Downtown events.



In addition, the PBID funds off-duty San José police officers to provide supplemental security within the district. The PBID's Secondary Employment Unit ("SEU") provides 50 hours of patrols per week, connecting with downtown businesses, responding to nuisance calls, and supplementing SJPD's regular on-duty patrols by focusing on quality-of-life concerns within the district. The safety activities will supplement, not replace, other ongoing City police, security, and patrol efforts within the PBID.

The table below is the projected deployment schedule for the Ambassador Team:

Safety Ambassadors:	Coverage Wide
Safety Ambassadors	7 Days/week
	6 Shifts/day
SEU Officers	5 Shifts/week

Beautification and Street Life:

The renewed PBID will continue to fund beautification and street life services but will move more into activating public spaces instead of just beautifying them. The current beautification activities include street tree trimming and planting, and maintenance of planters, hanging baskets, and in-ground landscaping sites. The Street Life program was introduced in 2014 which expanded the scope of PBID beautification projects and programs. Street Life initiatives include the following:

- Installing and maintaining string lights and decorative lighting, such as those at Circle of Palms, Post Street, and the San Pedro Arch
- Commissioning and maintaining murals and art crosswalks
- Building out and maintaining capital improvement projects such as Hart's Dog Park, MOMENT, and SoFA Pocket Park in efforts to activate underutilized spaces



Economic Vitality

In addition to the Environmental activities, a comprehensive economic vitality program has been included as a key component for PBID renewal. As the downtown comes out of the Covid pandemic and there is a more favorable economic climate, the activities for economic enhancements include:

Business Development:

The PBID business development program provides hands-on support to downtown property and business owners, both current and prospective. New capabilities will be added to this service area, doubling the capacity of PBID staff, adding a data analyst component, and focusing more intently on small business support and storefront activation. Services may include:

- Permitting assistance
- Liaisoning businesses with relevant City and County staff
- Connecting potential tenants with commercial property owners
- Assessing and sharing information on the downtown market

Communications:

The PBID, SJDA, and ratepaying property owners would all benefit from bolstered communications dedicated to the PBID. This is different from SJDA's existing communications that are predominantly focused on marketing and promotions. The PBID communications service will instead focus primarily on communicating what the PBID is, what its services are, and how ratepayers can best utilize it as a tool and resource.

Service Innovation/Special Projects:

One of the other additional services proposed for the renewed PBID is establishing funding that provides dedicated resources to service innovations and special projects. The intention is to ensure that Downtown San José is employing and creating best practices in downtown management and has the capacity to be a leader in shaping Downtown's future experience and environment. This service innovation capability could be used in concert with any of the program areas noted above, including safe and clean services.

Management and Administration

Like any business, the PBID will require a professional staff to properly manage programs, communicate with stakeholders and provide leadership. The PBID supports a professional staff that delivers programs and services on behalf of the parcels within the district. These PBID activities will provide direction on policies and issues that affect downtown.

Management services will include compensation for an Executive Director and staff members necessary to manage the PBID programs. The management team is responsible for providing the day-to-day operations. PBID funds may be used to leverage additional monies from sponsorships, contracts, grants and earned income. Additional administrative costs may include accounting and annual financial reviews, annual reporting, insurance, program support costs including supplies, equipment and rent, County assessment collection fee (estimated at 1% of assessments), City management fee (\$20,000/year), and other administration costs associated with the overhead and administrative support of programs.

SECTION C: BENEFITTING PARCELS

PBID Boundary Description

The original PBID boundary encompassed the core of the downtown area roughly bounded by 4th Street, the San José State University campus and City Hall complex to the east, St. James and Devine Streets to the north, Highway 87 and the arena complex to the west, and Market and 1st Streets south to Reed Street. However, over the course of the last fifteen years, downtown has experienced growth in areas that were adjacent to the old PBID boundary that are now recommended to be included.

1. North San Pedro/North St. James Park: Transformation of this area is well-underway as it has experienced a great amount of high-intensity residential development in recent years. There are more city blocks under development in this zone than anywhere else Downtown. As these developments complete, pedestrian activity is expected to be high throughout this area.
2. East Santa Clara/St. John: Santa Clara Street is the primary east-west gateway into Downtown that will benefit from consistency of services up to 7th Street. There is also some development pushing north from the Santa Clara corridor up to St. John Street. St. John Street is also a common corridor for the unhoused population and could benefit from Groundwerx services.
3. SoFA East: Incorporates the SoFA district more comprehensively into the PBID by adding in the 2nd Street corridor. It also adds parcels on the south side of Reed Street where significant development is anticipated, in turn creating a clearer delineation in the boundaries at the interstate overpass.
4. SoFA West: Incorporates an addition along Almaden Boulevard and Almaden Avenue, to maintain continuity of service along this corridor in anticipation of upcoming growth.
5. DoWe South: Incorporates Diridon Station into the PBID, along with one of its main pedestrian east-west connections into Downtown (San Fernando Street). Further, it includes both sides of San Fernando Street to ensure full service along the corridor. This expansion also captures a portion of the first phase of Google's future development. Given the phasing and timeline for Google's campus, further expansion on the west side of the PBID should take place during the next renewal in ten years, or at a five-year midpoint check-in.

Most of the proposed PBID expansion areas are already a part of the Business Improvement District (BID) – a separate downtown assessment district also formed and administered by SJDA. This has been a point of confusion for some businesses that have been a part of the BID but not the PBID, and in turn only receive certain SJDA services (i.e., marketing but not clean and safe). The proposed expansions will rectify some of this discrepancy.

The renewed PBID boundary, which includes the old boundary plus the expansion areas, is roughly bounded by 4th and 7th Streets, the San José State University campus and City Hall complex to the east, East Julian and the arena complex to the north, Highway 87 and the arena complex and Diridon Station to the west, and Almaden Blvd, 1st and 2nd Streets to Hwy 280 to the south.

Single Benefit Zone

The original PBID was allocated into two benefit zones (Premium and Basic) to reflect the level and frequency of deployed PBID services. The Premium Zone, which received the highest level of PBID services, was the core of downtown with the highest concentration of commercial development and pedestrian traffic. It was roughly bounded by St. John to the north, Almaden Blvd to the west, 1st and Reed Streets to the south, and 4th Street to the east. The Basic Zone, which received a lower level of service than the Premium Zone, was all the remaining parcels in the PBID boundary. The Basic Zone included areas east of 4th Street, north of St. John and west of Almaden Blvd.

As the footprint and development of downtown has changed over the course of the last 10 years, so should the PBID deployment of services. It is recommended that the premium service level be expanded beyond the PBID's current configuration of zones. Expanded premium service levels establish more reliable and consistent service throughout the core of Downtown. Pedestrian activity has expanded beyond the traditional core that was the impetus for the existing Premium Zone over a decade ago. Some of the parts of downtown most in need of clean and safe services are in areas not currently within the Premium Zone, such as those surrounding St. James Park and City Hall. Creating a single premium level of service throughout the district will allow the PBID to best address downtown's demands and challenges. The northern and western edges of the PBID are going through dramatic transformation and are experiencing ongoing growth in pedestrian activity and development density. Establishing a single benefit zone also eliminates what has at times been a confusing difference in service level between the existing Premium and Basic zones to ratepayers, simplifying and clarifying the PBID's model and services.

A map of the proposed district boundary is on the following page.



Downtown San Jose
PBID Map
Proposed Jan. 2022

SECTION D: PROPORTIONAL BENEFITS

Methodology

Article XIIID Section 4(a) of the State Constitution states that “The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of the public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided.”

Determining the proportionate special benefit among the parcels of real property within the proposed assessment district which benefit from the proposed improvements, services, and activities is the result of a four-step process:

1. Defining the proposed activities,
2. Determining which parcels specially benefit from the proposed activities,
3. Determining the amount of special benefit each parcel receives,
4. Determining the proportional special benefit a parcel receives in relation to the amount of special benefit all other parcels in the PBID receive.

Each identified parcel within the Downtown San José PBID will be assessed based upon each parcel's unique characteristics in relationship to all other specially benefitted parcels' characteristics. Due to the proportionate special benefits received by each parcel from the PBID services, each parcel will be assessed a rate which is commensurate with the amount of special benefits received.

Property Use Considerations

All parcels within the PBID specially benefit from the PBID activities but not to the same degree. The proportional special benefit and assessment methodology provides the following considerations for properties used exclusively for Residential and Non-Profit, and Government purposes:

Residential and Non-Profit Parcels: All residential and non-profit parcels receive the same level of service and special benefit from Environment Services (i.e., clean, safe and beautiful) as all other parcels in the PBID by making each of these parcels cleaner and safer. Specifically, these parcels specially benefit from PBID activities, such as removing graffiti from their buildings, patrolling their sidewalks, connecting the homeless to available resources, reducing the number of trips and falls by repairing the grout in the sidewalks in front of their parcel, cleaning up any debris or broken glass on their sidewalks, and power washing their sidewalks. Thus, each of these parcels is assessed for the special benefits received from the Environment services. However, these parcels will not receive special benefit from Economic Vitality services (i.e., business development) because those uses are not engaged in commercial or customer attraction activities and will not specially benefit from the increased economic activities. Therefore, they will not be assessed for the Economic Vitality services.

However, State Law provides that properties zoned solely for residential use are conclusively presumed not to benefit from the improvements and services funded through these assessments and shall not be subject to assessment. As a result, the properties within the PBID zoned solely for residential use will not be assessed for nor receive the Environment services like other

residential properties. The PBID Owners' Association does intend to engage the owners of the parcels zoned solely for residential use to determine if they are interested in a fee for service agreement with the Owners' Association to pay for and receive services as contemplated in the PBID MDP.

Government Parcels: The PBID includes parcels owned by the City of San José, County of Santa Clara, State of California, and the Federal government. The PBID has two different types of public parcels; those that are traditional government (e.g., courthouse, parks, fire stations, post office, and government offices), and other enterprise government parcels that support economic activities (e.g., convention center, the sports arena, and parking structures). All publicly owned parcels specially benefit from the Environment services as it makes each assessed parcel cleaner and safer. Specifically, these parcels specially benefit from PBID activities, such as, removing graffiti from their buildings, patrolling their sidewalks, connecting the homeless to available resources, reducing the number of trips and falls by repairing the grout in the sidewalks in front of their parcel, or cleaning up any debris or trash and power washing their sidewalks.

However, the traditional government parcels, unlike the enterprise government parcels will not benefit from the Economic Vitality services as they are not intended for commercial use or income generation and therefore, will not be assessed for those services. The enterprise government parcels are of a commercial nature and will specially benefit in much the same way as commercial parcels from the Economic Vitality services as they benefit from the business development and revenue generation and therefore, will be assessed their proportionate share of these activities.

All government parcels will pay their proportional share of costs based on the special benefits conferred to those individual parcels. Article XIID of the State Constitution specifies payment of assessments by governmental entities. Section 4(a) of Article XIID states in relevant part that "Parcels within a district that are owned or used by any agency... shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit."

Change in Property Use: If at any time a parcel within the district boundary changes its use, based on a change in zoning designation, entitlement process or otherwise, it will be subject to the assessment methodology for the new use of that property. For example, if a residential parcel changes to a commercial use, then that parcel in subsequent years shall be assessed at the commercial rate. As a result, the PBID may experience the addition or subtraction of assessable lot or building square footage for parcels included and assessed within the PBID boundaries. The modification of use for an assessed parcel within the PBID may then change upwards or downwards the amount of total lot and building square footage assessment for that parcel. In future years, determination of the special benefits bestowed upon individual assessed parcels may change in accordance with the assessment methodology formula listed in this Management District Plan and Engineer's Report, but the assessment formula itself can only be changed in accordance with the provisions of the PBID Law and any other applicable laws.

Special Benefit Factor

The methodology to levy assessments upon real property that receives special benefits from the services and activities of the PBID is Lot Square Footage plus Building Square Footage. These factors are an equitable way to identify the proportional special benefit that each of the parcels receive. The sum of the lot and gross building square footage acknowledges the benefits received at the ground level and distributed throughout the buildings. Each of the assessed parcels will benefit from the Environmental services not only at the street level but also throughout the buildings as it will provide a safer and cleaner environment for its employees, residents, and visitors. The Economic Vitality services are also delivered at both the ground level and throughout the buildings as they will improve occupancy, sales, business retention and recruitment to each individual assessed parcel. To determine the benefit relationship between the assessed parcels we assign Benefit Units to every parcel, which is the sum of each parcel's lot plus gross building square footage. In this way we relate the lot and building square footage of each parcel to all other parcels in the PBID. Together, these factors serve as the basic unit of measure to calculate how much special benefit each parcel receives in relationship to other parcels in the PBID, which is the basis to then proportionately allocate the cost of the special benefits.

Building square footage is defined as the total building square footage as determined by the outside measurements of a building. The gross building square footage is taken from the County Assessor's records.

Lot square footage is defined as the total amount of area within the boundaries of the parcel. The boundaries of a parcel are defined on the County Assessor parcel maps.

Each one of these factors represents the benefit units allocated to each specially benefitted parcel. The total number of assessable benefit units in the PBID are as follows:

Land Use	Benefit Units		
	Lot SF	Bldg SF	Total Lot + Bldg SF
Commercial/Govt (Enterprise)	10,618,388	14,489,021	25,107,409
Residential/NonProfit/Govt (Tradl)	4,771,321	7,459,428	12,230,749
TOTAL Benefit Units	15,389,709	21,948,449	37,338,158

SECTION E: SPECIAL and GENERAL BENEFITS

PBID Law, Article XIID of the State Constitution, and judicial opinions require that assessments be levied according to the estimated special benefit each assessed parcel receives from the activities and improvements. Article XIID Section 4(a) of the California Constitution in part states that “only special benefits are assessable,” which requires that we separate the general benefits, if any, from the special benefits provided by the proposed activities and improvements.

As of January 1, 2015, the State Legislature amended the PBID Law to clarify and define both special benefit and general benefit as they relate to the improvements and activities these districts provide. Specifically, the amendment (Section 36615.5 of the Streets and Highways Code) defines special benefit as follows: “‘Special benefit’ means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed.”

In addition, the amendment (Section 36609.5 of the Streets and Highways Code) defines general benefit as follows: “‘General benefit’ means, for purposes of a property-based district, any benefit that is not a ‘special benefit’ as defined in Section 36615.5.”

Furthermore, the amendment (Section 36601(h)(2)) states: “Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.”

Special Benefit Analysis

All special benefits derived from the assessments outlined in this Report are for property-related activities that are specifically intended for and directly benefiting each individually assessed parcel in the PBID. The special benefit must affect the individual assessable parcel in a way that is particular and distinct from its effect on other parcels and that real property in general and the public at large do not share. No parcel’s assessment shall be greater than the special benefits received.

Streets and Highways Code Section 36601(e) states that “Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits: (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied. (2) Job creation. (3) Business attraction. (4) Business retention. (5) Economic growth. (6) New investments.”

The PBID's goal is to fund activities and improvements to provide a cleaner, safer, and more attractive and economically vibrant environment as outlined in Section B. The goal of improving the economic vitality is to improve the economic development of each individual specially benefitted parcel in an effort to increase commerce, to increase building occupancy and lease rates and to attract more customers, employees, tenants, investors and residents.

To determine the benefit the PBID services confer to the assessed parcels, in 2012, the San José Downtown Association contracted with PMZ³ Research to conduct intercept surveys of pedestrians within the PBID boundary. The survey was to determine to what degree respondents engage in any type of commercial activity (going to a restaurant or movie, shopping, visiting a professional or service-oriented business, attending an arts performance or an event at the convention center) within the geographical boundary of the PBID. The survey included 408 participants, with a margin of error of 4.8%, and was conducted from March 9, 2012 through March 20, 2012 at eleven separate locations within the PBID with all efforts made to include an unbiased cross section of participants.

Of the 408 respondents, 100% indicated that they will and intend to engage in at least one of the activities asked in the survey (going to a restaurant or movie, shopping, visiting a professional or service-oriented business, attending an arts performance or an event at the convention center) within the PBID boundary as opposed to "just passing through" the PBID with no business purpose. The survey also found that of the 408 respondents 100% indicated that at least one of the PBID enhanced services contributed to their decision to come downtown and engage in commerce.

Note: The PBID was not able to conduct a new intercept survey due to the COVID-19 pandemic which had shelter in place orders and very low pedestrian traffic within the district. However, based on the results of the previous survey and the fact that the PBID continued to provide the same level of service, it is reasonable to conclude that the results of the original survey are still valid and that each of the proposed PBID services and activities provides special benefits to the real property within the PBID.

Specifically, the special benefit each assessed parcels receives from each of the PBID activities may include, and is defined in detail below are;

- Cleaner sidewalks, streets and common areas
- Real and perceived public safety improvements
- Connecting those experiencing homelessness to available resources
- Greater pedestrian traffic
- Enhanced rental incomes
- Improved business climate
- New business and investment
- Well managed PBID programs and services

Environment

The cleaning and beautification activities specially benefit each assessed parcel within the PBID by providing a clean and aesthetically appealing environment. This is achieved through sidewalk sweeping, power washing, removing litter and graffiti, trash removal, and streetscape furniture. These activities create the environment needed to achieve the PBID's other goals. Sidewalks that

are dirty and unclean, particularly from vagrant activities, deter pedestrians and commercial activity.

These activities are expected to provide special benefits to the assessed parcels in a variety of ways. For example:

- Maintaining and cleaning sidewalks in front of each parcel creates a cohesive environment and allows pedestrians to move freely throughout the PBID. Sidewalks that are dirty and unkempt deter pedestrians and commercial activity. “Walkable communities offer many financial benefits, such as a reduction in healthcare costs. Homes with sidewalks tend to sell for more money and in less time than similar homes without sidewalks. Businesses also benefit as residents are more likely to shop locally when there is increased connectivity between residential and business/commercial districts. The well-maintained sidewalks, accessibility, and inviting atmosphere of downtown helps to attract tourists.”⁹
- Removing graffiti from buildings to keep the aesthetic appeal uniform throughout the PBID.
- The beautification activities specially benefit each assessed parcel by providing maintained landscaped corridors and streetscape furniture in public places. These activities create the environment needed to achieve the PBID's other goals.

The enhanced safety activities make the downtown area safer which attracts more businesses, customers, and residents, and ultimately private investment. When business location decisions are made, “lower levels of public safety lead to increased uncertainty in decision making and can be perceived as a signal of a socio-institutional environment unfavorable for investment.” Uncertainty affects the investment environment in general, but in particular it increases the fear of physical damage to investment assets (or to people) or their returns...Almost universally, places with lower crime rates are perceived as more desirable.”¹⁰

Economic Vitality

The Economic Vitality activities consist of services directly benefitting the assessed commercial parcels. For example, the PBID will promote local businesses, help property owners attract high-paying tenants through advertising and neighborhood branding efforts, and highlight the special benefits that the assessed parcels are receiving through a website and stakeholder communications and special projects. These activities will specially benefit each assessed commercial and enterprise government parcels by encouraging business development and investment and increased commercial activity (e.g., filling vacant spaces, increased lease rates for commercial spaces). Decisions on where to shop, eat or conduct business are largely based on a perception of the place. If these economic vitality activities were not performed, it would be a deterrent to pedestrian traffic, business and commerce for the assessed commercial parcels.

Service Innovation/Special Projects

The activities or services funded through the Special Projects will allow the PBID to be responsive to an ever-changing downtown environment. They may fall under the purview of any of the services discussed above or they may include any other project that benefits the downtown and

⁹ “Benefits of Sidewalks”, Iowa Healthiest State Initiative, November 1, 2017

¹⁰ “Accelerating economic growth and vitality through smarter public safety management” IBM Global Business Services Executive Report, September 2012, pg. 2

specially benefitted parcels. Every year the Owners' Association Board of Directors will allocate these funds to special projects with the intent that over the course of the PBID term the special projects will be deployed or implemented throughout the district. In addition, any funded capital improvement project in the public right-of-way will need to be approved by the City, which will also ensure that the projects are spread throughout the district.

Management

The PBID requires a professional staff to properly manage programs, communicate with stakeholders, advocate with City departments, and provide leadership. Each parcel will specially benefit from the PBID executive staff that will ensure that the PBID activities are provided and deployed to assessed parcels and will provide leadership to represent the community with one clear voice.

Special Benefit Conclusion

Based on the special benefits each assessed parcel receives from the PBID activities, each of the proposed activities provides special benefits to applicable real property within the district and that each parcel's assessment is in direct relationship to and no greater than the special benefits received. All parcels within the PBID will specially benefit from the Environmental activities, and all commercial and enterprise government parcels specially benefit from the Economic Vitality activities.

The special benefit to parcels from the proposed PBID activities and improvements described in this report are equal to the total amount of the proposed assessment. Each individual assessed parcel's assessment is in proportion to the special benefit it receives from the PBID activities.

General Benefit Analysis

As required by the State Constitution, Article XIIID Section 4(a), the general benefits of an assessment district must be quantified and separated out so that the cost of the activities that are attributed to general benefit are deducted from the cost assessed against each specially benefitted parcel. General benefits are benefits from the PBID activities and improvements that are not special in nature, are not "particular and distinct" and are not over and above the benefits that other parcels receive. This analysis will evaluate and determine the level of general benefits that (1) parcels inside of the PBID, (2) parcels outside of the PBID, and (3) the public at large may receive.

General Benefit to Parcels Inside the PBID

The PBID funds activities and services that are designed and created to provide special benefits to each individually assessed parcel within the PBID as described above. The Clean, Safe and Beautiful activities are provided to the sidewalks and public rights-of-way in front of each assessed parcel while the Economic Vitality activities are targeted to promote the commercial and enterprise government parcels within the district. "The special benefits conferred on these parcels are distinct and special in nature. Any general benefits the parcels may receive are incidental to providing special benefits to the assessed parcels, and thus any cost associated to the incidental benefits are not reduced from the cost of providing special benefits to the assessed parcels".¹¹

¹¹ Streets and Highways Code Section 36622 (k)(2)

General Benefit to Parcels Outside of the PBID

All the PBID activities and improvements are provided solely for each of the individual assessed parcels in the PBID boundary. None of the surrounding parcels will directly receive any of the PBID activities. However, it is conceivable to conclude that some parcels outside of the PBID boundary may receive some general benefit from the Environmental activities (Clean, Safe and Beautiful) as well as the Economic Vitality activities. In the case of the PBID, the parcels considered outside of the PBID's boundary that may receive a general benefit are those parcels that are immediately adjacent to, or immediately across the street from the PBID boundary.

To calculate the general benefit parcels immediately adjacent to the PBID may receive, the percentage of each PBID activity's budget attributed to these parcels must be determined. The table below shows the budget for the Environmental and Economic Vitality activities that may have spillover benefit and its respective percentage of the total PBID budget. We then need to apply a benefit factor, which is a basic unit of measure that compares the benefit that parcels within the District receive compared to parcels outside of the District, to each of the activities accounting for the potential benefit parcels outside of the district may receive. Since the parcels in the District boundary directly receive all the PBID activities and the special benefit, they are assigned a relative benefit factor of 1.0 for each PBID activity. The parcels outside of the district boundary do not directly receive any PBID activities and are assigned a benefit factor less than 1.0 acknowledging their reduced benefit from PBID activities.

In the case of the Downtown San José PBID, the Economic Vitality activities may have a greater spillover benefit than the Environmental activities. The business development and communication activities under Economic Vitality may have a higher benefit to parcels immediately adjacent to the PBID boundary in that these activities may draw pedestrians downtown that might venture beyond the PBID boundary and patronize businesses on the periphery. All the specially benefitted parcels within the district boundary directly receive the Economic Vitality activities and are assigned a benefit factor of 1.0, whereas parcels immediately adjacent to the PBID boundary that do not directly receive these services must be assigned a benefit factor less than 1.0. Therefore, based upon our professional opinion, a benefit factor of 0.50 is assigned to the parcels that are outside the district acknowledging the spillover benefit bringing additional pedestrians downtown may have on parcels outside the district.

In addition to the Economic Vitality activities, the Environmental activities may also have a spillover benefit to parcels outside the district boundary. The parcels that are immediately adjacent to the PBID boundary may visually receive the benefits of the PBID services, e.g., cleaner sidewalks, safety teams, buildings without graffiti, and landscaped corridors. All the specially benefitted parcels within the district boundary directly receive the Environmental activities and are assigned a benefit factor of 1.0, whereas parcels immediately adjacent to the PBID boundary that do not directly receive these services receive a benefit factor of 0.25 acknowledging that there may be a visual benefit but not a direct or tangible benefit to their parcel.

The benefit factors for the parcels outside the district boundary for both the Economic Vitality and the Environmental activities is then multiplied by the PBID activity's budget percentage to determine the total benefit factor. The following table illustrates this calculation.

PBID Activities Budget:	Budget	Percent of Total	x	Benefit Factor	=	Total Benefit Factor
Budget for Environment:	\$4,110,000	77.84%		0.25		0.19460
Budget for Economic Vitality:	\$570,000	10.80%		0.50		<u>0.05398</u>
TOTAL PBID Assessment Budget:	\$5,280,000					0.24858

In the case of the PBID, with the district boundary being tightly drawn to only included specially benefited parcels, there are 20 non-residential parcels that are immediately adjacent to the PBID that may receive a general benefit. These parcels are assigned the total benefit factor of 0.24858 (0.19460 + 0.05398) to account for the fact that they may receive some benefit from both the Environmental as well as the Economic Vitality activities that may encourage commerce not only within the PBID boundary but immediately adjacent to it.

In comparison, there are 2,201 parcels within the PBID boundary, all of which receive a benefit factor of 1.0 acknowledging that they receive 100% special benefit from the PBID activities. To calculate the general benefit percentage, the respective benefit factors must be applied to the number of parcels both within the PBID boundary and those that are outside of the PBID boundary. The table below shows the calculation for the general benefit percentage. Note, the benefit factor and benefit units are rounded off to the fifth decimal place and the general benefit to parcels outside the district boundary may vary slightly when calculated by hand.

	No. of Parcels	Benefit Factor	Total Benefit Units
No. of parcels in District:	2201	1.00000	2201.00000
No. of non-residential zoned (or assessable) parcels adjacent to district boundary	20	0.24858	4.97159
Total number of parcels	2221		2205.97159

General Benefit to parcels outside of district boundary

0.22537%

(4.97159 / 2201.00000)

This analysis indicates that \$10,547 or 0.22537% of the budget allocated to Environment may be attributed to general benefit to parcels outside of the PBID boundary and must be raised from sources other than special assessments.

General Benefit to the Public At Large

In addition to general benefit analysis to the parcels outside of the PBID boundary, there may be general benefits to the public at large, i.e., those people that are either in the PBID boundary and not specially benefited from the activities, or people outside of the PBID boundary that may benefit from the PBID activities. In the case of the PBID, the public at large are those people that are within the PBID boundary that do not pay an assessment and do not specially benefit from the PBID activities.

To calculate the general benefit the public at large may receive, a determination is made for the percentage of each PBID activity budget that may benefit the general public. In this case, the Economic Vitality activities are tailored to benefit and promote each assessed commercial and enterprise government parcel in the district and is not intended to benefit the general public. If

there are any public benefits, they are incidental and collateral to providing special benefits to the assessed commercial and enterprise government parcels.

By contrast, the Environment activities do generally benefit the general public to some degree, as the general public may appreciate the enhanced level of maintenance, security and beautification as it passes through the district. To quantify this, we first determine a “relative benefit” factor for the Environment activities. The relative benefit factor is a unit of measure that compares the special benefit that the assessed parcels receive compared to the general benefit that the general public receives. To determine the relative benefit factor, we reference an intercept study that PMZ³ Research conducted within the district boundary in 2011.

The survey, in part, posed 4 questions to the respondents to measure how important the PBID activities were in their decision to be in the PBID. Of the 408 respondents, none of them indicated “Not at all Important” to all 4 questions relating to the PBID activities. What this indicates is that at least one of the PBID activities was important to every respondent to be in the PBID, and hence engaged in activities benefitting the parcels within the PBID. However, with the survey’s 4.8% margin of error it is conceivable there may be a nominal general benefit attributed to the public at large. For the purposes of this analysis, we will apply a 2.0% relative benefit to factor in the benefit received by the public at large. The 2.0% is reflective of the additional services that the PBID proposes to implement that were not included in the prior survey, e.g., the Social Impact Team, Beautification and Street Life, as well as the Service Innovation and Special Projects. *Note: The PBID was not able to conduct a new intercept survey due to the COVID-19 pandemic which had shelter in place orders and very low pedestrian traffic within the district.* Therefore, based on the results of the previous survey, and other intercept surveys conducted in other California communities: Sacramento Mack Road (2019); San Francisco Union Square (2019); and Los Angeles (Historic Downtown (2019), Arts District (2019), Downtown Industrial (2015), and Fashion District (2014) with survey results that ranged from 1% - 4% it is reasonable to conclude that the 2.0% general benefit properly accounts for the general public that is in the district and not specially benefitted. The 2.0% benefit factor is then multiplied by the Environment’s budget to determine the overall general benefit allocation. The following table illustrates this calculation.

	A	B	C
ACTIVITY	Budget Amount	Relative Benefit Factor	General Benefit Allocation (A x B)
Environment	\$4,110,000	2.00%	\$82,200

This analysis indicates that \$82,200 of the Environment activities may be attributed to general benefit to the public at large and must be raised from sources other than the special assessments.

General Benefit Conclusion

Using the sum of the three measures of general benefit described above we find that \$92,747 or 1.76% of the total budget may be general in nature and will be funded from sources other than special assessments.

The total general benefit from the PBID activities as quantified above is summarized in the table below.

General Benefit	General Benefit, \$
Parcels Inside the District	\$0.00
Parcels Outside the District	\$10,547
Public At Large	\$82,200
TOTAL	\$92,747 *

** Note: The City of San José has agreed to pay a portion of the general benefit through its Base Level Services agreement.*

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SECTION F: COST ESTIMATE

2023 PBID Assessment Budget

The PBID's operating budget takes into consideration:

1. The improvements and activities needed to provide special benefits to each individual parcel within the PBID boundary (Section B),
2. The parcels that specially benefit from said improvements and activities (Section C), and
3. The costs associated with the special and general benefits conferred (Section E).

EXPENDITURES	TOTAL BUDGET	% of Budget
Environment (Clean, Safe, Beautiful)	\$4,110,000	77.84%
Economic Vitality	\$570,000	10.80%
Management and Advocacy	\$600,000	11.36%
Total Expenditures	\$5,280,000	100.00%
REVENUES		
Assessment Revenues	\$4,685,540	88.74%
Other Revenues* - General Benefit	\$92,747	1.76%
Other Revenues* - Base Level Services Agrmt	\$501,713	9.50%
Total Revenues	\$5,280,000	100.00%

* Other non-assessment funding to cover the cost associated with the City's base line services agreement and general benefit.

Budget Notations

The services proposed for year one of the renewal term are the same services that are proposed for subsequent years. Assessments will be subject to an annual increase of up to 5% per year to address changes in the cost of providing the PBID services identified above. In addition, assessments for Commercial and Enterprise Government parcels may be increased up to an additional 5% with those revenues being specifically allocated to a capital reserve account to fund/augment the Beautification and Street Life services, including matching funds or leveraging capital improvement projects. The determination of annual adjustments in assessment rates will be subject to review and approval by the PBID Owners' Association and City Council and will be subject to the requirements of the PBID Law.

Bond Issuance

No bonds will be issued to finance improvements.

SECTION G: APPORTIONMENT METHOD

The PBID services and activities will be provided uniformly throughout the district. The cost of the special benefits received from these services is apportioned in direct relationship to each parcel's use, building square footage and lot square frontage as discussed above. Each parcel is assigned a proportionate benefit unit for each lot square foot plus building square foot. The sum of the total assessable benefit units in the PBID is then divided into the assessment budget to determine the assessment rate for each benefit unit. The total number of assessable benefit units in the PBID are as follows:

As previously discussed in Section D, the PBID is segregated into two property use classifications and assessable benefit units. The table below summarizes the assessable benefit units for each property use classification:

Land Use	Benefit Units		
	Lot SF	Bldg SF	Total Lot + Bldg SF
Commercial/Govt (Enterprise)	10,618,388	14,489,021	25,107,409
Residential/NonProfit/Govt (Tradl)	4,771,321	7,459,428	12,230,749
TOTAL Benefit Units	15,389,709	21,948,449	37,338,158

Calculation of Assessments

Based on the assessment factors, benefit units for each variable plus the proposed budget for each benefit zone, all of which are discussed above, the following table illustrates the maximum annual assessment per assessable benefit unit for per each benefit zone. Note, assessment rates are rounded off to the fourth decimal place and a parcel's assessment may vary slightly when calculated using the assessment rates below.

Land Use	Assmt Rate per Benefit Unit
Commercial/Govt (Enterprise)	\$0.13390
Residential/NonProfit/Govt (Tradl)	\$0.1083

Specifically, the assessment rates are calculated as follows:

Environment + Management – Other Revenues = \$4,042,463

Assessed to all parcels in the District.

$$\text{Budget / sum of building + lot SF} \\ (\$4,042,463 / 37,338,158) = \$0.1083 \text{ per building + lot square foot}$$

Economic Vitality + Management = \$643,077

Assessed to only Commercial and Enterprise Government parcels.

$$\text{Budget / sum of building + lot SF} \\ \$643,077 / 25,107,409 = \$ 0.0256 \text{ per building + lot square foot}$$

The total Commercial and Enterprise Government assessment per building + lot square foot
 = \$0.1339 (\$0.1083 + 0.0256)

Sample Parcel Assessments

The initial annual parcel assessment for a Commercial/Government Enterprise parcel with 20,000 building square feet, and 5,000 lot square feet is calculated as follows:

Building square footage + Lot square feet x the assessment rate

$$(20,000 + 5,000) \times \$0.1339 = \$3,347.50$$

The initial annual parcel assessment for a Residential/Non-Profit/Government Traditional parcel with 20,000 building square feet, and 5,000 lot square feet is calculated as follows:

Building square footage + Lot square feet x the assessment rate

$$(20,000 + 5,000) \times \$0.1083 = \$2,707.50$$

Maximum Annual Assessment Adjustments

Assessments will be subject to an annual increase of up to 5% per year to address changes in the cost of providing the PBID services identified above. In addition, assessments for Commercial and Enterprise Government parcels may be increased up to an additional 5% with those revenues being specifically allocated to a capital reserve account to fund/augment the Beautification and Street Life services, including matching funds or leveraging capital improvement projects. The determination of annual adjustments in assessment rates will be subject to review and approval by the PBID Owners' Association and City Council and will be subject to the requirements of the PBID Law.

The cost of providing programs and services may vary depending on the market cost for those programs and services. Expenditures may require adjustment up or down to continue the intended level of programs and services. The Owner's Association shall have the right to reallocate up to 10% by line item of budget allocation within the budgeted categories. Any change will be approved by the Owners' Association Board of Directors and submitted to the City of San José within its annual planning report. Pursuant to Section 36650 of the California Streets and Highways Code. The overall budget shall remain consistent with this Management District Plan. Each assessed parcel pays for 100% of the special benefit received based on the level of benefit received.

Future Development

As a result of continued development, the PBID may experience the addition or subtraction of assessable footage for parcels included and assessed within the PBID boundaries. The modification of parcel improvements assessed within the PBID may then change upwards or downwards the amount of total footage assessment for these parcels, pursuant to Government Code 53750(h)(3), will be prorated to the date the parcel receives the temporary and/or permanent certificate of occupancy.

In future years, the assessments for the special benefits bestowed upon the included PBID parcels may change in accordance with the assessment methodology formula identified in the MDP and Engineer's Report provided the assessment rate does not change. The assessment formula can only be changed in accordance with the provisions of the PBID Law and any other applicable laws.

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