CITY OF SANTA BARBARA

WILDLAND FIRE SUPPRESSION ASSESSMENT

PRELIMINARY ENGINEER'S REPORT

MAY 2014

PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 50078 *ET SEQ.*, AND ARTICLE XIIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:

SCIConsultingGroup
4745 MANGELS BOULEVARD
FAIRFIELD, CALIFORNIA 94534
PHONE 707.430.4300
FAX 707.430.4319
WWW.SCI-CG.COM

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CITY OF SANTA BARBARA

CITY COUNCIL

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Chris Braden, Fire Services Specialist

CITY ATTORNEY'S OFFICE

Ariel Pierre Calonne, City Attorney
Sarah Knecht, Assistant City Attorney

ENGINEER OF WORK

SCI Consulting Group

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INTRODUCTION

The City of Santa Barbara is located about 100 miles northwest of Los Angeles, largely on the slopes between the Pacific Ocean and the Santa Ynez Mountains. The City of Santa Barbara provides fire services throughout the City limits. Fire services include fire suppression, protection, prevention, evacuation planning, and education.

Due to topography, location, climate and infrastructure, the Santa Barbara community has a relatively high inherent risk of wildland fires. Listed below are some of the major wildland fires that have occurred in Santa Barbara County since 1970:

FIGURE 1 – WILDLAND FIRE HISTORY IN SANTA BARBARA COUNTY

Year	Fire Name	Acres	Homes Lost
1971	Romero Canyon Fire	14,538	4
1977	Sycamore Canyon Fire	805	234
1977	Hondo Canyon Fire	10,000	0
1979	Eagle Canyon Fire	4,530	5
1990	Painted Cave Fire	4,900	524
1993	Marre Fire	43,864	0
2002	Sudden Fire	7,160	0
2004	Gaviota Fire	7,440	1
2007	Zaca Fire	240,207	0
2008	Gap Fire	9,443	0
2008	Tea Fire	1.940	210
2009	Jesusita Fire	8,733	80

In response to the considerable wildland fire risk in the area, the City of Santa Barbara Fire Department prepared a Wildland Fire Plan in January, 2004, in which it identified four High Fire Hazard Zones: The Coastal Zone, the Coastal Interior Zone, the Foothill Zone, and the Extreme Foothill Zone. The two Zones with the highest wildland fire risk are the Foothill and Extreme Foothill Zones (the "Zones"), and these are the Zones that are included in this assessment.

These Zones are at a high risk of wildland fires due to the following factors:

- **Climate.** The climate consists of cool, moist winters and hot, dry summers. The low humidity and high summer temperatures increase the likelihood that a spark will ignite a fire in the area, and that the fire will spread rapidly.
- **Topography.** Periodic wind conditions known as "Sundowner" and "Santa Ana" winds interact with the steep slopes in the Santa Ynez Mountains and the ocean influence, resulting in an increase in the speed of the wind to severe levels. These two types of wind conditions increase the likelihood that fires will advance

downslope towards the Foothill and Extreme Foothill Zones. In addition, these winds can greatly increase the rate at which a fire will spread.

- **Chaparral.** Much of the undeveloped landscape is covered with chaparral. Chaparral sheds woody, dead, and organic materials rich in flammable oils, which accumulate over time. Areas covered with chaparral typically experience wildland fires which burn the accumulated plant materials, and renew the chaparral for its next cycle of growth. Therefore, areas of chaparral which are not thinned, and from which the dead plant materials are not removed or burned off in prescribed fires, provide ample opportunities for wildland fires to occur and to spread.
- **Road Systems.** Many of the roads in the Foothill and Extreme Foothill Zones do not meet current Fire Department access and vegetation road clearance standards, and many are made even more narrow due to the encroachment of vegetation. A number of the bridges have weight requirements that are below Fire Department weight standards. In addition, many driveways are long and steep, posing a safety hazard. All of these factors make it more difficult and more hazardous for the Fire Department to provide fire suppression services in these areas.
- **Water Supply.** In the Extreme Foothill Zone, the City water supply is limited in some areas, and not available in others. These factors increase the risks associated with fires, due to the reduced availability of water to fight any fires that occur.
- **Fire Response Time.** Much of the Extreme Foothill Zone, and some of the Foothill Zone, is outside the City's 4 minute Fire Department response time. As a result, fires in these areas may have more time to spread and to increase in severity before fire suppression equipment can reach them.
- **Proximity to the Los Padres National Forest.** The Los Padres National Forest (LPNF) is a large forest to the north of the Foothill and Extreme Foothill zones. The LPNF provides a great deal of potential fuel for any wildland fire in the area. Wildland fires that start in the LPNF have the potential to move south toward the Foothill and Extreme Foothill zones.

This Engineer's Report (the "Report") was prepared to: 1) contain the information required by Government Code Section 50078.4, including a) a description of each lot or parcel of property to be subject to the assessment, b) the amount of the assessment for each lot or parcel for the initial fiscal year, c) the maximum amount of the assessment which may be levied for each lot or parcel during any fiscal year, d) the duration of the assessment, e) the basis of the assessment, f) the schedule of the assessment, and g) a description specifying the requirements for protest and hearing procedures for the assessment pursuant to Section 50078.6; 2) establish a budget to provide services to reduce the severity and damage from wildland fires (the "Services") that will be funded by the 2014-15

assessments; 3) determine the benefits received from the Services by property within the City of Santa Barbara Wildland Fire Suppression Assessment District (the "Assessment District") and; 4) assign a method of assessment apportionment to lots and parcels within the Assessment District. This Report and the assessments have been made pursuant to the California Government Code Section 50078 et. seq. (the "Code") and Article XIIID of the California Constitution (the "Article").

In Fiscal Year 2006-07, the City of Santa Barbara City Council (the "Council") by Resolution called for an assessment ballot proceeding and public hearing on the then-proposed establishment of a wildland fire suppression assessment.

On May 5, 2006 a notice of assessment and assessment ballot was mailed to property owners within the proposed Assessment District boundaries. Such notice included a description of the Services to be funded by the proposed assessments, a proposed assessment amount for each parcel owned, and an explanation of the method of voting on the assessments. Each notice also included a postage prepaid ballot on which the property owner could mark his or her approval or disapproval of the proposed assessments as well as affix his or her signature.

After the ballots were mailed to property owners in the Assessment District, the required minimum 45 day time period was provided for the return of the assessment ballots. Following this 45 day time period, a public hearing was held on June 20, 2006 for the purpose of allowing public testimony regarding the proposed assessments. At the public hearing, the public had the opportunity to speak on the issue. After the conclusion of the public input portion of the hearing, the hearing was continued to July 11, 2006 to allow time for the tabulation of ballots.

With the passage of Proposition 218 on November 6, 1996, The Right to Vote on Taxes Act, now Article XIIIC and XIIID of the California Constitution, the proposed assessments could be levied for fiscal year 2006-07, and continued in future years, only if the ballots submitted in favor of the assessments were greater than the ballots submitted in opposition to the assessments. (Each ballot is weighted by the amount of proposed assessment for the property that it represents).

After the conclusion of the public input portion of the Public Hearing held on June 20, 2006, all valid received ballots were tabulated by the City of Santa Barbara Clerk. At the continued public hearing on July 11, 2006, after the ballots were tabulated, it was determined that the assessment ballots submitted in opposition to the proposed assessments did not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted).

As a result, the Council gained the authority to approve the levy of the assessments for fiscal year 2006-07 and to continue to levy them in future years. The Council took action,

by a Resolution passed on July 31, 2006, to approve the first year levy of the assessments for fiscal year 2006-07.

The authority granted by the ballot proceeding was for a maximum assessment rate of $65.00 per single family home, increased each subsequent year by the Los Angeles Area Consumer Price Index (CPI) not to exceed 4% per year. In the event that the annual change in the CPI exceeds 4%, any percentage change in excess of 4% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 4%.

In each subsequent year for which the assessments will be continued, the Council must preliminarily approve at a public meeting a budget for the upcoming fiscal year's costs and services, an updated annual Engineer's Report, and an updated assessment roll listing all parcels and their proposed assessments for the upcoming fiscal year. A new Engineer's Report is prepared each year in order to establish the CPI adjustment for that year; the new maximum authorized assessment rate for that year; the budget for that year; and the amount to be charged to each parcel in the District that year, subject to that year's assessment rate and any changes in the attributes of the properties in the District, including but not limited to use changes, parcel subdivisions, and/or parcel consolidations. At this meeting, the Council will also call for the publication in a local newspaper of a legal notice of the intent to continue the assessments for the next fiscal year and set the date for the noticed public hearing. At the annual public hearing, members of the public can provide input to the Council prior to the Council's decision on continuing the services and assessments for the next fiscal year.

If the assessments are so confirmed and approved, the levies will be submitted to the Santa Barbara County Auditor/Controller for inclusion on the property tax roll for Fiscal Year 2014-15. The levy and collection of the assessments will continue year-to-year until terminated by the City Council.

If the City Council approves this Engineer's Report for fiscal year 2014-15 and the assessments by Resolution, a notice of assessment levies must be published in a local paper at least 10 days prior to the date of the public hearing. Following the minimum 10-day time period after publishing the notice, a public hearing will be held for the purpose of allowing public testimony about the proposed continuation of the assessments for fiscal year 2014-15.

A Public Hearing is scheduled for May 20, 2014. At this hearing, the Council will consider approval of a resolution confirming the assessments for fiscal year 2014-15. If so confirmed and approved, the assessments will be submitted to the Santa Barbara County Auditor/Controller for inclusion on the property tax rolls for Fiscal Year 2014-15.

The Assessment District is narrowly drawn to include only properties that benefit from the additional fire protection services that are provided by the assessment funds. The

Assessment Diagram included in this report shows the boundaries of the Assessment District.

In 2008 per California Public Resource Code 4201-4204 and Government Code 51175 - 89, the Office of the State Fire Marshal (OSFM) completed an analysis to identify Local Responsibility Area areas of Very High Fire Hazard Severity Zones (VHFHSZ) within the City of Santa Barbara. Discussions between OSFM and the City of Santa Barbara Fire Department were concluded in 2010. As a result additional parcels have been added to the 2004 City of Santa Barbara high fire hazard area, Foothill Zone. These additional parcels are not included in the Wildland Fire Suppression Assessment District at this time, and Services provided to these parcels are not funded from this assessment.

PROPOSITION 218

This assessment was formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIIIC and XIIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including a property-owner balloting, for the formation and continuation of assessments, and these requirements were satisfied by the process used to establish this assessment.

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority ("SVTA vs. SCCOSA") case. This ruling is the most significant legal decision clarifying Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the Assessment District

This Engineer's Report is consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIIIC and XIIID of the California Constitution because the Services to be funded are clearly defined; the Services are available to all benefiting property in the Assessment District, the benefiting property in the Assessment District will directly and tangibly benefit from improved protection from fire damage, increased safety of property and other special benefits and such special benefits provide a direct advantage to property in the Assessment District that is not enjoyed by the public at large or other property.

There have been a number of clarifications made to the analysis, findings and supporting text in this Report to ensure that this consistency is well communicated.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the Court of Appeal for the Second District of California amended its original opinion upholding a benefit assessment district for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review and the court's decision in Dahms became binding precedent for assessments. In Dahms, the court upheld an assessment that conferred a 100% special benefit to the assessed parcels on the rationale that the services and improvements funded by the assessments were provided directly and only to property in the assessment district over and above those services or improvements provided by the city generally.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the ground that the assessments had been apportioned to assessed property based, in part, on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

GOLDEN HILL NEIGHBORHOOD ASSOCIATION V. CITY OF SAN DIEGO

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in Beutz, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIIC and XIIID of the California Constitution and with the SVTA decision because the Services to be funded are clearly defined; the Services are available to and will be directly provided to all benefiting property in the Assessment District; and the Services provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with Dahms because, similar to the Downtown Pomona assessment validated in Dahms, the Services will be directly provided to property in the Assessment District. Moreover, while Dahms could be used as the basis for a finding of 0% general benefits, this Engineer's Report establishes a more conservative measure of general benefits.

The Engineer's Report is consistent with Bonander because the Assessments have been apportioned based on the overall cost of the Services and proportional special benefit to each property. Finally, the Assessments are consistent with Buetz because the general benefits have been explicitly calculated and quantified and excluded from the Assessments.

DESCRIPTION OF SERVICES

The City of Santa Barbara Fire Department provides a range of fire protection, prevention, and educational services to the City and its residents.

The following is a description of the wildland fire suppression Services that are provided for the benefit of property within the Assessment District. Prior to the passage of the assessment in 2006, the baseline level of service was below the standard described in the City's 2004 Wildland Fire Plan. Due to inadequate funding, the level of service continued to diminish and would have diminished further had this assessment not been instituted. With the passage of this assessment, the services were enhanced significantly. The formula below describes the relationship between the final level of improvements, the baseline level of service (pre 2006) had the assessment not been instituted, and the enhanced level of improvements funded by the assessment.

Final Level of Service	=	Baseline Level of Service	+	Enhanced Level of Service

Baseline level of service is pre-2006.

The services (the "Services") undertaken by the City of Santa Barbara Fire Department and the cost thereof paid from the levy of the annual assessment provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein. In addition to the definitions provided by the California Government Code Section 50078 et. seq., (the "Code") the Services are generally described as follows:

- Expansion of the vegetation road clearance program to cover all public roads within the Foothill and Extreme Foothill Zones. This program reduces fuel, enhance evacuation routes, and decrease fire response times
- Implementation of a defensible space and fire prevention inspection and chipping assistance program for all properties in the Foothill and Extreme Foothill Zones
- Implementation of a vegetation management program in the Foothill and Extreme Foothill Zones

As applied herein, "vegetation road clearance" means the treatment, clearing, reducing, or changing of vegetation near roadways in the Foothill and Extreme Foothill Zones where vegetation poses a fire hazard and does not meet Fire Department Vegetation Road Clearance Standards within the high fire hazard area (As provided in Santa Barbara Municipal Code Section 8.04).

"Defensible space" is a perimeter created around a structure where vegetation is treated, cleared or reduced to slow the spread of wildfire towards a structure, reduce the chance of

a structure fire burning to the surrounding area, and provides a safe perimeter for firefighters to protect a structure (As provided in Chapter 49 of the California Fire Code, as adopted by the City of Santa Barbara pursuant to Santa Barbara Municipal Code Section 8.04).

"Vegetation management" means the reduction of fire hazard through public education, vegetation hazard reduction, and other methods as needed to manage vegetation in areas with unique hazards such as heavy, flammable vegetation, lack of access due to topography and roads, and/or firefighter safety.

COST AND BUDGET

FIGURE 2 - COST AND BUDGET FY 2014-15

CITY OF SANTA BARBARA Wildland Fire Suppression Assessment Estimate of Costs	***Total Budget***
Services Costs	
Evacuation Planning - Evacuation Roadway Clearing	
Staffing	$43,000
Materials	$4,000
Project Costs	$45,000
Defensible Space	
Staff	$36,000
Materials	$6,000
Chipping Program	$36,000
Vegetation Management	
Staffing	$40,534
Project	$48,733
Totals for Installation, Maintenance and Servicing	$259,267
Less: District Contribution for General Benefits	($20,000)
Net Cost of Installation, Maintenance and Servicing to Assessment District	$239,267
Incidental Costs:	
District Administration and Project Management	$6,150
Allowance for County Collection	$3,490
Subtotals - Incidentals	$9,640
Total Wildland Fire Suppression District Budget (Net Amount to be Assessed)	$248,907
Assessment District Budget Allocation to Parcels	
Total Assessment Budget	$248,907
Single Family Equivalent Benefit Units in District	3,287
Assessment per Single Family Equivalent Unit (SFE)	$ 75.72

METHOD OF APPORTIONMENT

METHOD OF APPORTIONMENT

This section includes an explanation of the special benefits derived from the Services, the criteria for the expenditure of assessment funds and the methodology used to apportion the total assessments to properties within the Assessment District.

The Assessment District area consists of all Assessor Parcels within the Foothill and Extreme Foothill zones of the High Fire Hazard Area as defined by the 2004 Wildland Fire Plan. The method used for apportioning the assessment is based upon the proportional special benefits from the Services derived by the properties in the assessment area over and above general benefits conferred on real property or to the public at large. Special benefit is calculated for each parcel in the Assessment District using the following process:

1. Identification of all benefit factors derived from the Improvements
2. Calculation of the proportion of these benefits that are general
3. Determination of the relative special benefit within different areas within the Assessment District
4. Determination of the relative special benefit per property type
5. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes

DISCUSSION OF BENEFIT

California Government Code Section 50078 et. seq. allows agencies which provide fire suppression services, such as the City of Santa Barbara Fire Department, to levy assessments for fire suppression services. Section 50078 states the following:

> *"Any local agency which provides fire suppression services directly or by contract with the state or a local agency may, by ordinance or by resolution adopted after notice and hearing, determine and levy an assessment for fire suppression services pursuant to this article."*

In addition, California Government Code Section 50078.1 defines the term "fire suppression" as follows:

> *"(c) "Fire suppression" includes firefighting and fire prevention, including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard."*

Therefore, the Services provided by the Assessment District fall within the scope of services that may be funded by assessments under the Code.

The assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's specific use of the Services or a property owner's specific demographic status. With reference to the requirements for assessments, Section 50078.5 of the California Government Code states:

> *"(b) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit."*
> *"The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available whether or not the service is actually used."*

Proposition 218, as codified in Article XIIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

> *"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

Since assessments are levied on the basis of special benefit, they are not a tax and are not governed by Article XIIIA of the California Constitution.

The following section describes how and why the Services specially benefit properties. This benefit is particular and distinct from its effect on property in general or the public at large.

BENEFIT FACTORS

In order to allocate the assessments, the Engineer identified the types of special benefit arising from the Services that are provided to property in the Assessment District. These benefit factors confer a direct advantage to the assessed properties; otherwise they would be general benefit.

The following benefit categories have been established that represent the types of special benefit conferred to residential, commercial, industrial, institutional and other lots and parcels resulting from the services to reduce the severity and damage from wildland fires that are provided in the Assessment District. These categories of special benefit are derived from the statutes passed by the California Legislature and other studies, which describe the types of special benefit received by property from the Services of the Assessment District. These types of special benefit are summarized as follows:

INCREASED SAFETY AND PROTECTION OF REAL PROPERTY ASSETS FOR ALL PROPERTY OWNERS WITHIN THE ASSESSMENT DISTRICT.

As summarized previously, properties in the Assessment District are currently at higher risk for wildland fires. Uncontrolled fires would have a devastating impact on all properties within the Assessment District. The assessments fund an increase in services to mitigate the wildland fire threat, and thereby can significantly reduce the risk of property damage associated with fires. Clearly, fire mitigation helps to protect and specifically benefits both improved properties and vacant properties in the Assessment District.

> *"Fire is the largest single cause of property loss in the United States. In the last decade, fires have caused direct losses of more than $120 billion and countless billions more in related cost."*[1]
> *"Over 140,000 wildfires occurred on average each year, burning a total of almost 14.5 million acres. And since 1990, over 900 homes have been destroyed each year by wildfires."*[2]
> *"A wildfire sees your home as just another fuel source. The survivable space you construct around your home will keep all but the most ferocious wildfires at bay."*[3]
> *"A reasonably disaster-resistant America will not be achieved until there is greater acknowledgment of the importance of the fire service and a willingness at all levels of government to adequately fund the needs and responsibilities of the fire service."*[4]
> *"The strategies and techniques to address fire risks in structures are known. When implemented, these means have proven effective in the reduction of losses."* [5]
> *"Statistical data on insurance losses bears out the relationship between excellent fire protection…and low fire losses."* [6]

PROTECTION OF VIEWS, SCENERY AND OTHER RESOURCE VALUES, FOR PROPERTY IN THE ASSESSMENT DISTRICT

The Assessment District provides funding for the mitigation of the wildland fire threat to protect public and private resources in the Assessment District. This benefits even those properties that are not directly damaged by fire by maintaining and improving the aesthetics and attractiveness of public and private resources in the community, as well as ensuring that such resources remain safe and well maintained.

> *"Intensely burned forests are rarely considered scenic."* [7]
> *"Smoke affects people…for example; in producing haze that degrades the visual quality of a sunny day…The other visual quality effect is that of the fire on the landscape. To many people, burned landscapes are not attractive and detract from the aesthetic values of an area."*[8]
> *"A visually preferred landscape can be the natural outcome of fuels treatments."*[9]

ENHANCED UTILITY AND DESIRABILITY OF THE PROPERTIES IN THE ASSESSMENT DISTRICT.

The assessments fund Services to reduce the severity and damage from wildland fires in the Assessment District. Such Services enhance the overall utility and desirability of the properties in the Assessment District.

> *"Residential satisfaction surveys have found that having nature near one's home is extremely important in where people choose to live…This is especially true at the wildland-urban interface where some of the most serious fuels management must occur."* [10]
> *"People are coming to the [Bitterroot] valley in part because of its natural beauty which contributes to the quality of life that so many newcomers are seeking."*[11]

BENEFIT FINDING

In summary, real property located within the boundaries of the Assessment District distinctly and directly benefits from increased safety and protection of real property, increased protection of scenery and views, and enhanced utility of properties in the Assessment District. These are special benefits to property in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of property and make them more functional to use, safer and easier to access.

GENERAL VERSUS SPECIAL BENEFIT

Article XIIIC of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to "separate the general benefits from the special benefits conferred on a parcel." The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. The assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

Total Benefit = General Benefit + Special Benefit

There is no widely-accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not "particular and distinct" and are not "over and above" benefits received by other properties. SVTA vs. SCCOSA provides some clarification by indicating that general benefits provide "an indirect, derivative advantage" and are not necessarily proximate to the improvements.

The starting point for evaluating general and special benefits is the pre 2006 baseline level of service, had the assessment not been approved by the community. The assessment

will fund Services "over and above" this general, baseline level and the special benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

General Benefit	=	Benefit to real property outside of improvement district	+	Benefit to real property inside of improvement district	+	Benefit to public at large

Special benefit, on the other hand, is defined in the state constitution as "a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large." The SVTA v. SCCOSA decision indicates that a special benefit is conferred to a property if it "receives a direct advantage from the improvement (e.g., proximity to a park)." In this assessment, as noted, the improved Services are available when needed to all properties in the Assessment District, so the overwhelming proportion of the benefits conferred to property is special, and are only minimally received by property outside the Assessment District or the public at large.

Proposition 218 twice uses the phrase "over and above" general benefits in describing special benefit. (Art. XIIID, sections 2(i) & 4(f).) Arguably, all of the Services being funded by the assessment would be a special benefit because the Services particularly and distinctly benefit the properties in the Assessment District over and above the baseline benefits.

Nevertheless, arguably some of the Services benefit the public at large and properties outside the Assessment District. In this report, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

(In the 2009 *Dahms* case, the court upheld an assessment that conferred a 100% special benefit to the assessed parcels on the rationale that the services and improvements funded by the assessments were provided directly and only to property in the assessment district over and above those services or improvements provided by the city generally. Similarly, the Assessments described in this Engineer's Report fund wildland fire services directly and only to the assessed parcels located within the assessment area. Moreover, every property within the Assessment District will receive the Services. While the *Dahms* decision would permit an assessment based on 100% special benefit and zero or minimal general benefits, in this report, the general benefit is estimated and described and budgeted so that it is funded by sources other than the Assessment.)

CALCULATING GENERAL BENEFIT

This section provides a measure of the general benefits from the assessments

BENEFIT TO PROPERTY OUTSIDE THE ASSESSMENT DISTRICT

Properties within the Assessment District receive almost all of the special benefits from the Services because the Services will be provided solely in the Assessment District boundaries. Properties proximate to, but outside of, the boundaries of the Assessment District receive some benefit from the Services due to some degree of indirectly reduced fire risk to their property. These parcels that are proximate to the boundaries of the Assessment District are estimated to receive less than 50% of the benefits relative to parcels within the Assessment District because they do not directly receive the improved fire protection resulting from the Services funded by the Assessments.

At the time the Assessment District was formed, there were approximately 550 of these "proximate" properties.

Assumptions:

550 parcels outside the district but proximate to the District Boundaries

3,550 parcels in the Assessment District.

50% relative benefit compared to property within the Assessment District.

Calculation:

General Benefit to property outside the Assessment District

= (550/(550+3,550))*0.5=6.7%

Although it can reasonably be argued that properties protected inside, but near the Assessment District boundaries are offset by similar fire protection provided outside, but near the Assessment District's boundaries, we use the more conservative approach of finding that 6.7% of the Services may be of general benefit to property outside the Assessment District.

BENEFIT TO PROPERTY *INSIDE* THE DISTRICT THAT IS *INDIRECT AND DERIVATIVE*

The "indirect and derivative" benefit to property within the Assessment District is particularly difficult to calculate. A solid argument can be presented that all benefit within the Assessment District is special, because the Services are clearly "over and above" and "particular and distinct" when compared with the pre-2006 baseline level of Services, had the assessment district not passed.

In determining the Assessment District boundaries, the District has been careful to limit it to an area of parcels that will directly receive the benefit of the improved Services. All

parcels will directly benefit from the use of the improved Services throughout the Assessment District in order to achieve the desired level of wildland fire suppression and protection throughout the Assessment District. Fire protection and suppression will be provided as needed throughout the area.

The SVTA vs. SCCOSA decision indicates that the fact that a benefit is conferred throughout the Assessment District area does not make the benefit general rather than special, so long as the Assessment District is narrowly drawn and limited to the parcels directly receiving shared special benefits from the service. This concept is particularly applicable in situations involving a landowner-approved assessment-funded extension of a local government service to benefit lands previously not receiving that particular service. The Fire Department therefore concludes that, other than the small general benefit to properties outside the Assessment District (discussed above) and to the public at large (discussed below), all of the benefits of the Services to the parcels within the Assessment District are special benefits and it is not possible or appropriate to separate any general benefits from the benefits conferred on parcels in the Assessment District.

BENEFIT TO THE PUBLIC AT LARGE

With the type and scope of Services provided to the Assessment District, it is very difficult to calculate and quantify the scope of the general benefit conferred on the public at large. Because the Services directly serve and benefit all of the property in the Assessment District, any general benefit conferred on the public at large would be small. Nevertheless, there may be some indirect general benefit to the public at large.

The public at large uses the public highways and other regional facilities when traveling in and through the Assessment District and they may benefit from the services without contributing to the assessment. Although the protection of this critical infrastructure is certainly a benefit to all the property within the Assessment District, it is arguably "indirect and derivative" and possibly benefits people rather than property. A fair and appropriate measure of the general benefit to the public at large therefore is the amount of highway, and regional facilities within the Assessment District relative to the overall land area. An analysis of maps of the Assessment District shows that less than 1.0% of the land area in the Assessment District is covered by highways and regional facilities. This 1.0% therefore is a fair and appropriate measure of the general benefit to the public at large within the Assessment District

SUMMARY OF GENERAL BENEFITS

Using a sum of the measures of general benefit for the public at large and land outside the Assessment District, we find that approximately 7.7% of the benefits conferred by the Assessment District may be general in nature and should be funded by sources other than the assessment.

General Benefit Calculation

	6.7%	**(Outside the Assessment District)**
+	**0.0%**	**(Inside the district – indirect and derivative)**
+	**1.0%**	**(Public at Large)**
=	**7.7%**	**(Total General Benefit)**

The Assessment District's total budget for 2014-15 is $259,267. The Assessment District must obtain funding from sources other than the assessment in the amount of approximately $19,964 ($259,267*7.7%) to pay for the cost of the general benefits. This is because the assessments levied by the Fire Department may not exceed the special benefits provided by the Services, and the Assessment Engineer concluded that a combined total of 7.7% of the cost of Services provide a general benefit to properties outside the Assessment District and a benefit to the public at large. For Fiscal Year 2014-15, the City will contribute at least $20,000, or 7.7% of the total Assessment District budget, to the Assessment District from sources other than this assessment. This contribution constitutes more than the 7.7% general benefits estimated by the Assessment Engineer.

ZONES OF BENEFIT

Initially, the Fire Department evaluated the geographic area within and around the City limits (including the City of Santa Barbara, Santa Barbara County, Montecito and National Forest lands) based upon three fire hazard risk variables: vegetation (fuel), topography and weather. This analysis was used to narrowly determine the boundaries of the "high fire hazard area." Further, zones were narrowly drawn within the high fire hazard area and graded "extreme," "high," "moderate" or "low". Next, the Fire Department evaluated the roof type, proximity of structures, road systems, water supply, fire response times and historic fire starts within the high fire hazard area and developed 4 specific zones:

- Extreme Foothill Zone
- Foothill Zone
- Coastal Zone
- Coastal Interior Zone

These zones were used to apply appropriate policies and actions based upon hazard and risk. The results of this analysis were tabulated and presented in Tables 2 through 4 in the 2004 Wildland Fire Plan.

Accordingly, "Zones of Benefit" corresponding to the fire risk zones are used to equitably assign special benefit, and are used for the basis of the "Fire Risk Factors" discussed below. Each zone was narrowly drawn, and has been given a score, based upon the

evaluated risk criteria, as shown in Figure 3. (The assessment provides Services in the Extreme Foothill Zone and the Foothill Zone only.)

FIGURE 3 - RELATIVE HAZARD/RISK SCORING FOR HIGH FIRE HAZARD AREA ZONES

Hazard/Risk Attribute	Extreme Foothill Zone	Foothill Zone	Coastal Zone	Coastal Interior Zone
Combined Hazard Assessment - vegetation (fuel), topography, weather*	40	30	20	10
Roof Type**	1	2	2	3
Proximity	1	3	1	3
Road	3	3	1	1
Water	3	1	1	1
Response	3	2	2	2
Ignitions	1	1	1	1
Total Score	52	42	28	21

* The Hazard Assessment element of this analysis is the most significant. Scores have been "weighted" by a factor of 10.

** In the Extreme Foothill Zone fire retardant roofing materials are more prevalent, resulting in lower risk in this area.

Figure 4 shows the numeric scoring system used to develop the relative total scores.

FIGURE 4 - SCORING SYSTEM

Qualititative Score	Numeric Score
Very High	4
High	3
Moderate	2
Low	1

The total relative scores for each zone are tabulated and normalized, based up the Foothill Zone, and shown in Figure 5.

FIGURE 5 - WILDLAND FIRE RISK FACTORS

Zone	Raw Score	Wildland Fire Risk Factor
Extreme Foothill Zone	52	1.24
Foothill Zone	42	1.00
Coastal Zone**	28	.67
Coastal Interior Zone**	21	.50

**Coastal Zone and Coastal Interior Zone are included in this analysis for clarity; however these zones are not included in the Assessment District.

ASSESSMENT APPORTIONMENT

In the process of determining the appropriate method of assessment, the Assessment Engineer considered various alternatives. For example, an assessment only for all residential improved property was considered but was determined to be inappropriate because vacant, commercial, industrial and other properties also receive special benefits from the assessments.

Moreover, a fixed or flat assessment for all properties of similar type was deemed to be inappropriate because larger commercial/industrial properties and residential properties with multiple dwelling units receive a higher degree of benefit than other similarly used properties that are significantly smaller. For two properties used for commercial purposes, there clearly is a higher benefit provided to the larger property in comparison to a smaller commercial property because the larger property generally supports a larger building and has higher numbers of employees, customers and guests that benefit from reduced wildland fire risk. This benefit ultimately flows to the property. Larger parcels, therefore, receive an increased benefit from the assessments.

The Assessment Engineer determined that the appropriate method of assessment should be based on the type of property, the relative size of the property and the potential use of property by residents and employees. This method is further described below.

METHOD OF ASSESSMENT

The next step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a "benchmark" property, a single family detached dwelling on one parcel of one acre or less in the Foothill Zone (one “Single Family Equivalent Benefit Unit” or “SFE”). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefits and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. In this Engineer’s Report, all

properties are assigned an SFE value, which is each property's relative benefit in relation to a single family home on one parcel.

The relative benefit to properties from fire related Services is:

EQUATION 1 – RELATIVE BENEFIT TO PROPERTIES

$$\textbf{Benefit} \approx \sum \textbf{(Fire Risk Factors)} * \sum \textbf{(Structure Value Factors)}$$

That is, the benefit conferred to property is the "sum" the risk factors multiplied by the "sum" of the structure values factors.

FIRE RISK FACTORS

Typical fire assessments (non-wildland) are evaluated based upon the fire risk of a certain property type. These evaluations consider factors such as use of structure (e.g. used for cooking), type of structure (centralized heating), etc.

Wildland fires, on the other hand, are initiated largely from external ignitions and are far less affected by structural, mechanical and electrical systems inherent to the building (except roof type). The principle Wildland fire risk factors are:

- Vegetation (fuel)
- Topography
- Weather
- Roof type
- Proximity of Structure
- Road Systems
- Water Supply
- Response
- Ignitions

These factors were fully evaluated in the 2004 Wildland Fire Plan and are manifested in the relative zone scores as shown in Figures 3, 4 and 5, above. Hence, the Fire Risk Factor for all properties within the Foothill Zone is 1.00 and the Fire Risk Factor for all properties in the Extreme Foothill Zone is 1.24.

STRUCTURE VALUE FACTORS

The relative value of different property types was evaluated within the high fire hazard area to determine the Structure Value Factor according to the following formula:

EQUATION 2 - STRUCTURE VALUE FACTORS

∑ (Structure Value Factors)	≈	**(Structure Weighting Factor * Average Improved Value)**	*	**(Land Weighting Factor * Average Total Value)**	*	**(Unit Density Factor)**

Where:

"Structure Weight Factor" = 10 to "weight" relative importance of structure over land.

"Average Improved Value" is average of value of all improvements (e.g. structures), per property type, as provide by County Assessor records.

Land Weighting Factor = 1

"Average Total Value" is average of value of all land + improvements (e.g. structures), per property type, as provide by County Assessor records. County assessor land values were not used directly because experience has shown total values to be more comprehensive.

Unit Density Factor corresponds values with units (i.e. "per residential unit" or "per acre") based upon effective density of structure on parcel.

Figure 6 below is a tabulation of the Structure values for each property type as defined by Equation 2, above.

FIGURE 6 – STRUCTURE VALUE FACTORS

Property Type	Structure Value Factor	Unit
Single Family	1.0000	per each*
Multi-Family	0.3683	per res. unit
Commercial/Industrial	0.8187	per acre
Office	0.7058	per acre
Institutional	0.3841	per each
Storage	0.0952	per acre
Agricultural	0.0809	per acre
RangeLand	0.0181	per acre
Vacant	0.0324	per each

*for homes on an acre or less. For homes on more than one acre, the Structure Value Factor is increased by 0.0809 per acre

RESIDENTIAL PROPERTIES

All improved residential properties with a single residential dwelling unit on one acre or less are assigned one Single Family Equivalent or 1.0 SFE in the Foothill Zone. In the Extreme Foothill Zone, all improved residential properties on one acre or less are assessed 1.24 SFEs (See Table 5). Residential properties on parcels that are larger than 1 acre receive additional benefit and are assigned additional SFEs on a "per acre" basis. Detached or attached houses, zero-lot line houses and town homes are included in this category.

Properties with more than one residential unit are designated as multi-family residential properties. These properties benefit from the Services in proportion to the number of dwelling units that occupy each property. The relative benefit for multi-family properties was determined as per Equation 1 to be 0.3683 SFEs per residential unit in the Foothill Zone and 0.4567 per residential unit in the Extreme Foothill Zone. This rate applies to condominiums as well.

COMMERCIAL/INDUSTRIAL & OFFICE PROPERTIES

Commercial and industrial properties are assigned benefit units per acre, since there is a relationship between parcel size, structure size and relative benefits. The relative benefit for commercial and industrial properties was determined as per Equation 1 to be 0.8187 SFEs per acre in the Foothill Zone and 1.0151 per acre in the Extreme Foothill Zone. The relative benefit for office properties was determined as per Equation 1 to be 0.7058 SFEs per acre in the Foothill Zone and 0.8751 per acre in the Extreme Foothill Zone.

VACANT/UNDEVELOPED, OPEN SPACE AND AGRICULTURAL PROPERTIES

The relative benefit for vacant properties was determined as per Equation 1 to be 0.0324 SFEs per parcel in the Foothill Zone and 0.04012 per parcel in the Extreme Foothill Zone. Open space and agricultural land have minimal improvements and few, if any; structures that require defensible space, and are assigned benefit "per acre." The relative benefit for open space properties was determined as per Equation 1 to be 0.0181 SFEs per acre in the Foothill Zone and 0.0224 per acre in the Extreme Foothill Zone. The relative benefit for agricultural properties was determined as per Equation 1 to be 0.0809 SFEs per acre in the Foothill Zone and 0.1002 per acre in the Extreme Foothill Zone.

OTHER PROPERTIES

Institutional properties, such as publicly owned properties (and are used as such), for example, churches, are assessed at 0.3841 per parcel in the Foothill zone and 0.4762 per Parcel in the Extreme Foothill zone. The relative benefit for storage properties was determined as per Equation 1 to be 0.0952 SFEs per acre in the Foothill Zone and 0.1180 per acre in the Extreme Foothill Zone.

Article XIIID, Section 4 of the California Constitution states that publicly owned properties shall not be exempt from assessment unless there is clear and convincing evidence that those properties receive no special benefit.

All public properties that are specially benefited are assessed. Publicly owned property that is used for purposes similar to private residential, commercial, industrial or institutional uses is benefited and assessed at the same rate as such privately owned property.

SUMMARY OF BENEFITS FOR EACH PROPERTY TYPE

Figure 7 summarizes the relative benefit for each property type.

FIGURE 7 - RELATIVE BENEFIT FACTORS FOR FOOTHILL AND EXTREME FOOTHILL ZONES

	Foothill Zone		Extreme Foothill Zone	
Property Type	**Benefit Factors (SFEs)**	**Unit**	**Benefit Factors (SFEs)**	**Unit**
Single Family	1.0000	per each	1.2400	per each
Multi-Family	0.3683	per unit	0.4567	per unit
Commercial/Industrial	0.8187	per acre	1.0152	per acre
Office	0.7058	per acre	0.8752	per acre
Institutional	0.3841	per each	0.4763	per each
Storage	0.0952	per acre	0.1181	per acre
Agricultural	0.0809	per acre	0.1003	per acre
RangeLand	0.0181	per acre	0.0225	per acre
Vacant	0.0324	per each	0.0402	per each

APPEALS OF ASSESSMENTS LEVIED TO PROPERTY

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment may file a written appeal with the Fire Chief of the City of Santa Barbara Fire Department or his or her designee. Any such appeal is limited to correction of an assessment during the then current fiscal year. Upon the filing of any such appeal, the Chief or his or her designee will promptly review the appeal and any information provided by the property owner. If the Chief or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the Chief or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the Chief or his or her designee shall be referred to the City Council and the decision of the Council shall be final.

ADDITIONAL BACKGROUND ON RELATIVE BENEFIT

In essence, when property owners are deciding how to cast their ballot for a proposed assessment, each property owner must weigh the perceived value of the Services proposed to them and their property with the proposed cost of the assessment to their property. If property owners of a certain type of property are either opposed or in support of the assessment in much greater percentages than owners of other property types, this is an indication that, as a group, these property owners perceive that the proposed assessment has relatively higher or lower “utility” or value to their property relative to owners of other property types. One can also infer from these hypothetical ballot results, that the apportionment of benefit (and assessments) was too high or too low for that property type. In other words, property owners, by their balloting, ultimately indicate if they perceive the special benefits to their property to exceed the cost of the assessment, and,

as a group, whether the determined level of benefit and proposed assessment (the benefit apportionment made by the Assessment Engineer) is consistent with the level of benefits perceived by the owners of their type of property relative to the owners of other types of property.

DURATION OF THE ASSESSMENT

The duration of the assessment is one year, and may be continued each year by a vote of the City Council. The assessment cannot be increased in future years without approval from property owners in another assessment ballot proceeding, except for an annual adjustment tied to the change in the Los Angeles-Riverside-Orange County Area Consumer Price Index, not to exceed 4% per year.

CRITERIA AND POLICIES

This sub-section describes the criteria that shall govern the expenditure of assessment funds and ensures equal levels of benefit for properties of similar type. The criteria established in this Report, as finally confirmed, cannot be substantially modified; however, the Council may adopt additional criteria to further clarify certain criteria or policies established in this Report or to establish additional criteria or policies that do not conflict with this Report.

ASSESSMENT FUNDS MUST BE EXPENDED WITHIN THE FOOTHILL AND EXTREME FOOTHILL ZONES

The net available assessment funds, after incidental, administrative, financing and other costs, shall be expended exclusively for Services within the boundaries of the Assessment District, namely, the Foothill and Extreme Foothill Zones.

EXISTING GENERAL FUNDS

Prior to formation, Wildland Fire Services were funded with approximately $200,000 from the City of Santa Barbara general fund. The intent of the program is that this general fund revenue will be maintained by the City to the extend feasible and the assessment will augment the current funding and services. Further, a portion of the general fund revenue is needed to pay for any and all general benefits from the wildland fire Services, as described above.

ASSESSMENT

WHEREAS, the City Council of the City of Santa Barbara is proceeding with the proposed levy of assessments under California Government Code sections 50078 et seq. (the "Code") and Article XIIID of the California Constitution (the "Article");

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the Services upon all assessable parcels within the Assessment District;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Code and Article and the order of the Council of said City, hereby make the following assessment to cover the portion of the estimated cost of said Services, and the costs and expenses incidental thereto to be paid by the Assessment District.

The amount to be paid for said Services and the expense incidental thereto, to be paid by the Assessment District for the fiscal year 2014-15 is generally as follows:

SUMMARY COST ESTIMATE FY 2014-15

Budget	
Evacuation Planning – Evacuation Roadway Clearing	$92,000
Defensible Space	$78,000
Vegetation Management	$89,267
Total for Installation, Maintenance and Servicing	$259,267
Less: Contribution for General Benefits	($20,000)
Incidental Costs:	
Administration and Project Management	$6,150
Allowance for County collection	$3,490
Subtotal – Incidentals	$9,640
Total Wildland Fire Suppression Assessment Budget	$248,907

An Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Assessment District. The distinctive number of each parcel or lot of land in said Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion said net amount of the cost and expenses of said Services, including the costs and expenses incident thereto, upon the parcels and lots of land within said Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the Services, and more particularly set forth in the Cost

Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is subject to an annual adjustment tied to the annual change in the Consumer Price Index for the Los Angeles-Riverside-Orange County Area as of January of each succeeding year, with the maximum annual adjustment not to exceed 4%.

In the event that the actual assessment rate for any given year is not increased by an amount equal to the maximum of 4% or the yearly CPI change plus any CPI change in previous years that was in excess of 4%, the maximum authorized assessment shall increase by this amount. In such event, the maximum authorized assessment shall be equal to the base year assessment as adjusted by the increase to the CPI, plus any and all CPI adjustments deferred in any and all prior years. The CPI change above 4% can be used in a future year when the CPI adjustment is below 4%. For 2014-15, the allowable CPI increase is 0.77%.

Hence, the proposed rates for 2014-15 will increase by 0.77% from the 2013-14 rates – from $75.14 to $75.72 per single family home in the Foothill Zone and from $93.17 to $93.89 per single family home in the Extreme Foothill Zone. The total revenue derived from the assessment is $248,907 for 2014-15.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the City of Santa Barbara for the fiscal year 2014-15. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of Santa Barbara County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2014-15 for each parcel or lot of land within the said Assessment District.

Dated: May 6, 2014

Engineer of Work

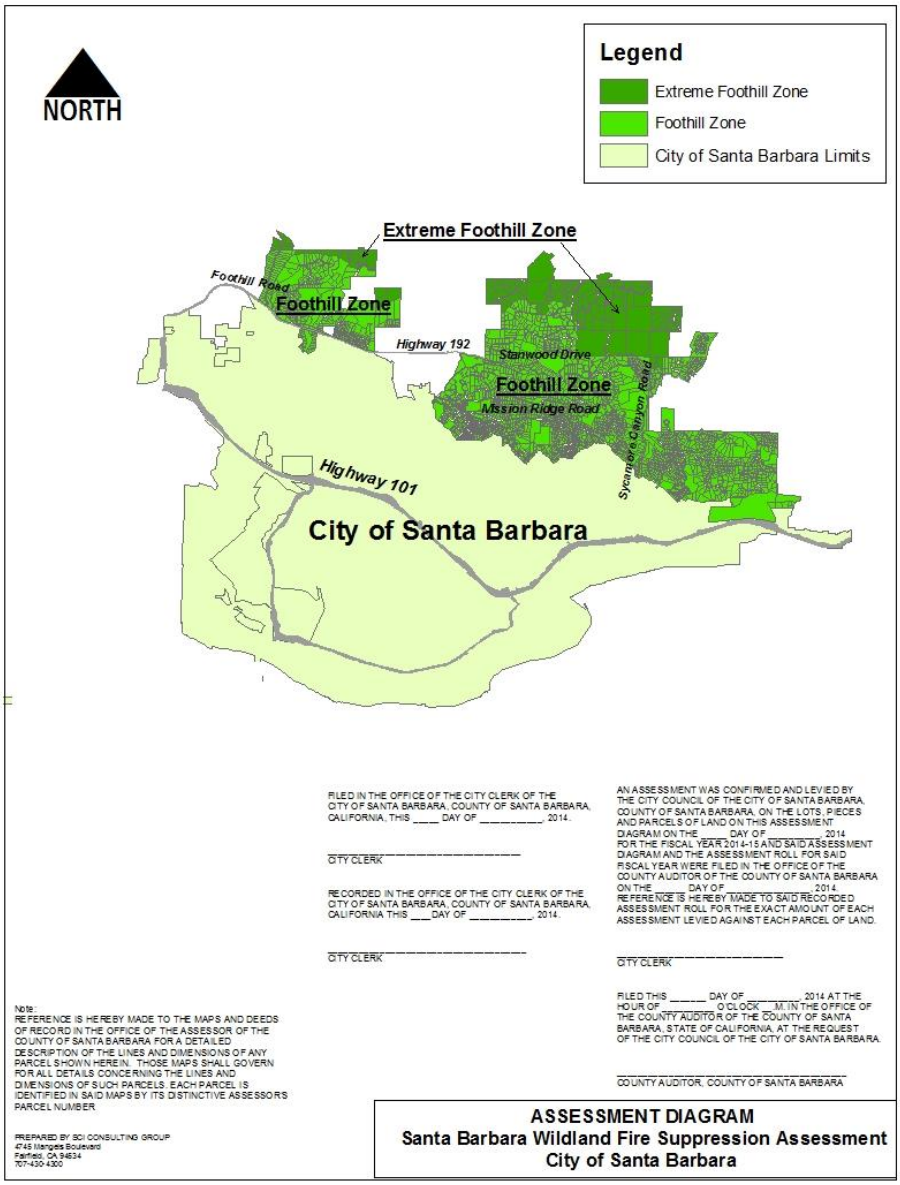
REGISTERED PROFESSIONAL ENGINEER
JOHN W. BLISS
No. C052091
Exp: 12-31-14
CIVIL
STATE OF CALIFORNIA

By

John W. Bliss, License No. C052091

ASSESSMENT DIAGRAM

The Assessment District includes all properties within the boundaries of the Wildland Fire Suppression District. The boundaries of the Assessment District are displayed on the following Assessment Diagram. The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions as shown on the maps of the Assessor of the County of Santa Barbara, for fiscal year 2014-15, and are incorporated herein by reference, and made a part of this Diagram and this Report.



APPENDICES

APPENDIX A – ASSESSMENT ROLL, FY 2014-15

The Assessment Roll is made part of this report and is available for public inspection during normal office hours. Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference, made part of this report. There records shall govern for all details concerning the description of the lots of parcels.

APPENDIX B – CALIFORNIA GOVERNMENT CODE SECTION 50078 ET. SEQ.

50078. Any local agency which provides fire suppression services directly or by contract with the state or a local agency may, by ordinance or by resolution adopted after notice and hearing, determine and levy an assessment for fire suppression services pursuant to this article. The assessment may be made for the purpose of obtaining, furnishing, operating, and maintaining fire suppression equipment or apparatus or for the purpose of paying the salaries and benefits of firefighting personnel, or both, whether or not fire suppression services are actually used by or upon a parcel, improvement, or property.

50078.1. As used in this article:

(a) "Legislative body" means the board of directors, trustees, governors, or any other governing body of a local agency specified in subdivision (b).

(b) "Local agency" means any city, county, or city and county, whether general law or chartered, or special district, including a county service area created pursuant to the County Service Area Law, Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3.

(c) "Fire suppression" includes firefighting and fire prevention, including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard.

50078.2. (a) The ordinance or resolution shall establish uniform schedules and rates based upon the type of use of property and the risk classification of the structures or other improvements on, or the use of, the property. The risk classification may include, but need not be limited to, the amount of water required for fire suppression on that property, the structure size, type of construction, structure use, and other factors relating to potential fire and panic hazards and the costs of providing the fire suppression by the district to that property. The assessment shall be related to the benefits to the property assessed.

(b) The benefit assessment levies on land devoted primarily to agricultural, timber, or livestock uses, and being used for the commercial production of agricultural, timber, or livestock products, shall be related to the relative risk to the land and its products. The amount of the assessment shall recognize normal husbandry practices that serve to mitigate risk, onsite or proximate water availability, response time, capability of the fire suppression service, and any other factors which reflect the benefit to the land resulting from the fire suppression service provided. A benefit assessment shall not be levied for wildland or watershed fire suppression on land located in a state responsibility area as defined in Section 4102 of the Public Resources Code. This subdivision is not applicable to any benefit assessment levied prior to January 1, 1984, on land devoted primarily to agricultural, timber, or livestock uses.

50078.3. Any ordinance or resolution adopted by a local agency pursuant to this article establishing uniform schedules and rates for assessments for fire suppression services

which substantially conforms with the model ordinance which the State Fire Marshal is authorized to adopt pursuant to Section 13111 of the Health and Safety Code shall be presumed to be in compliance with the requirements of Section 50078.2.

50078.4. The legislative body of the local agency shall cause to be prepared and filed with the clerk of the local agency a written report which shall contain all of the following:

(a) A description of each lot or parcel of property proposed to be subject to the assessment.

(b) The amount of the assessment for each lot or parcel for the initial fiscal year.

(c) The maximum amount of the assessment which may be levied for each lot or parcel during any fiscal year.

(d) The duration of the assessment.

(e) The basis of the assessment.

(f) The schedule of the assessment.

(g) A description specifying the requirements for protest and hearing procedures for the proposed assessment pursuant to Section 50078.6.

50078.5. (a) The legislative body may establish zones or areas of benefit within the local agency and may restrict the imposition of assessments to areas lying within one or more of the zones or areas of benefit established within the local agency.

(b) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit. The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available whether or not the service is actually used.

50078.6. The clerk of the local agency shall cause the notice, protest, and hearing procedures to comply with Section 53753. The mailed notice shall also contain the name and telephone number of the person designated by the legislative body to answer inquiries regarding the protest proceedings.

50078.13. The local agency shall pay the county for costs, if any, incurred by the county in conducting the election. An election called by a legislative body pursuant to this article is subject to all provisions of the Elections Code applicable to elections called by the local agency. The local agency may recover the costs of the election and any other costs of preparing and levying the assessment from the proceeds of the assessment.

50078.16. The legislative body may provide for the collection of the assessment in the same manner, and subject to the same penalties as, other fees, charges, and taxes fixed and collected by, or on behalf of the local agency. If the assessments are collected by the county, the county may deduct its reasonable costs incurred for that service before remittal of the balance to the local agency's treasury.

50078.17. Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution levying an assessment or modifying or amending an existing ordinance or resolution. If an ordinance or resolution provides for an automatic adjustment in an assessment, and the automatic adjustment results in an increase in the amount of an assessment, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 90 days of the effective date of the increase. Any appeal from a final judgment in the action or proceeding brought pursuant to this section shall be filed within 30 days after entry of the judgment.

50078.19. This article does not limit or prohibit the levy or collection of any other fee, charge, assessment, or tax for fire suppression services authorized by any other provisions of law.

50078.20. Any fire protection district may specifically allocate a portion of the revenue generated pursuant to this article to pay the interest and that portion of the principal as will become due on an annual basis on indebtedness incurred pursuant to Section 8589.13 of this code and Section 13906 of the Health and Safety Code.

APPENDIX C – ARTICLE XIIID OF THE CALIFORNIA CONSTITUTION

Proposition 218 was approved by voters as a Constitutional Amendment on November 6, 1996. It became Article XIIIC and Article XIIID of the California State Constitution and has imposed additional requirements for assessment districts. Following is a summary of the Article.

SEC.1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIIIC shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes.

SEC. 2. Definitions. As used in this article:

(a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIIIC.

(b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."

(c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) "District" means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.

(f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) "Property-related service" means a public service having a direct relationship to property ownership.

(i) "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."

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited.

(a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except: (1) The ad valorem property tax imposed pursuant to Article XIII and Article XIIIA. (2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIIIA. (3) Assessments as provided by this article. (4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

SEC. 4. Procedures and Requirements for All Assessments.

(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 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.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of

the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e).

SEC. 5. Effective Date.

Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.

END NOTES

[1] Insurance Services Offices Inc. http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf

[2] Institute for Business & Home Safety, "Protect Your Home Against Wildfire Damage," http://www.ibhs.org/publications/view.asp?id=125

[3] Institute for Business & Home Safety, "Is Your Home Protected from Wildfire Damage? A Homeowner's Guide to Retrofit," http://www.ibhs.org/publications/view.asp?id=130

[4] U.S. Fire Administration, Department of Homeland Security, "America Burning, Recommissioned: Principal Findings and Recommendations," p.1, http://www.usfa.fema.gov/downloads/pdf/abr-rep.PDF

[5] U.S. Fire Administration, Department of Homeland Security, "America Burning, Recommissioned: Principal Findings and Recommendations," p.2, http://www.usfa.fema.gov/downloads/pdf/abr-rep.PDF

[6] Insurance Services Offices Inc., p. 1, http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf

[7] Renewable Natural Resources Foundation, "Workshop on National Parks Fire Policy: Goals, Perceptions, and Reality," Renewable Resources Journal, Volume 11, Number 1, Spring 1993, p. 6

[8] Weldon, Leslie A. C., "Dealing with Public Concerns in Restoring Fire to the Forest," General Technical Report INT-GTR-341 The Use of Fire in Forest Restoration, U.S. Forest Service, June 1996, p. 3

[9] U.S. Forest Service, Department of Agriculture, "Social Science to Improve Fuels Management: A Synthesis of Research on Aesthetics and Fuels Management," p. 1, http://ncrs.fs.fed.us/pubs/gtr/gtr_nc261.pdf

[10] U.S. Forest Service, Department of Agriculture, "Social Science to Improve Fuels Management: A Synthesis of Research on Aesthetics and Fuels Management," p. 25, http://ncrs.fs.fed.us/pubs/gtr/gtr_nc261.pdf

[11] Weldon, Leslie A. C., "Dealing with Public Concerns in Restoring Fire to the Forest," General Technical Report INT-GTR-341 The Use of Fire in Forest Restoration, U.S. Forest Service, June 1996, p. 2