

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY

Administration Office: 11200 Speegle St. Castroville CA 95012

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<http://www.ncfpd.org>



REGULAR MEETING

Location: 11160 Speegle Street, Castroville

Tuesday, June 21, 2022

10:00 a.m.

Board of Directors:

Don Chapin, President

Jacqueline C. Simon, Vice-President

Vacant, Secretary

Stanley Silva, Director

Peter Scudder, Director

Fire Chief Joel Mendoza

NORTH COUNTY FIRE PROTECTION DISTRICT REGULAR BOARD MEETING AGENDA

Meeting Location: 11200 Speegle Street, Castroville, CA

North County Fire Protection District Station 1 –
Upstairs Meeting Room is non-ADA compliant,
will relocate upon request.

Date: **Tuesday, June 21, 2022**

Roll Call: President Don Chapin
Vice President Jacqueline C. Simon
Secretary Ramon Gomez
Director Stanley Silva
Director Peter Scudder

Administration: Fire Chief Joel Mendoza

Time: 10:00 a.m.

**Please silence all cell phones and refrain from texting during the meeting.*

CALL TO ORDER:

OPEN SESSION:

PLEDGE OF ALLEGIANCE:

1. ADDITIONS & CORRECTIONS TO AGENDA:

The Secretary to the Board will announce Agenda corrections and proposed additions, which may be acted on by the Board as provided in Section 54954.2 of the California Government Code.

2. PUBLIC COMMENTS:

*Public comment on items **not** on the Board's agenda shall be limited to 3 minutes per person per topic and understand that no action shall be taken on any item not appearing on the agenda. During consideration of any agenda item, public comment shall be limited to 3 minutes per person per topic and will be allowed **prior** to Board action on the item under discussion.*

3. MINUTES:

Take action on the May 17, 2022, regular board meeting minutes and the March 18, 2022, special board meeting minutes.

4. PUBLIC HEARING:

Public Hearing to action to approve Resolution 22-6-3, and approve the engineer's report, confirming the assessment diagram and assessment and ordering the continuation of the levy of assessments for fiscal year 2022-23 for the Prop 218 Fire Protection and Emergency Response Services Assessment

5. PURCHASING CONSENT & CHECK REGISTERS – Routine Expenses

<p><i>Note: If you believe you possess any disability that would require special accommodations in order to attend this meeting, please call North County Fire Protection District at 633-2578 or 722-7833.</i></p>	<p><i>Page 1 of 2</i></p>
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6. FINANCIAL REPORTS:

- a. Accept Revenue Report May 2022.
- b. Accept Expense Report: May 2022.
- c. Accept County Treasury Reconciliation Ending: May 2022.
- d. Accept Comerica Bank Reconciliation Ending: May 2022.
- e. Accept Santa Cruz County Bank Bank Reconciliation Ending: May 2022.
- f. Accept Monthly CAL-CARD (US Bank) Reconciliation Report & Expense Statements Ending: May 2022.

7. CORRESPONDENCE:

None

8. FIRE CHIEF'S REPORT:

- a. Receive Monthly Report

9. OLD BUSINESS:

None

10. NEW BUSINESS:

- a. Take Action to Adopt the Preliminary Budget for Fiscal Year 2022/23.
- b. Take Action to Set the Time and Date for a Public Hearing to Adopt of Fiscal Year 2022/23 Final Budget.
- c. Take Action on Resolution 22-6-1: Dry Period Loan Request for Fiscal Year 2022/23.
- d. Take action on Resolution 22-6-2: Resolution ordering an election, requesting the county elections department to conduct the election.
- e. Take action on Take Action to Accept the 2022 Grand Jury Report and Review Staff responses to Report Findings and Recommendations

CLOSED SESSION:

- None
-

ANNOUNCEMENT OF CLOSED SESSION ITEMS (if applicable):

The board will report out on any action taken during Closed Session, and may take additional action in Open session as appropriate.

11. BOARD of DIRECTORS COMMUNICATION: *When needed, this time is reserved for the Board of Directors to communicate activity, educational classes, and/or Committee reports.*

Next meeting: Tuesday, July 19, 2022, at 10:00 A.M.

ADJOURNMENT:

AGENDA POSTED AND FAXED TO MEDIA AT 04:00 P.M. on Friday, June 17, 2022

Posting Locations:

Castroville Library Bulletin Board, 11160 Speegle Street, Castroville CA 95012
NCFD, Station 1: 11200 Speegle Street, Castroville CA 95012
NCFD, Station 2: 17639 Pesante Road, Prunedale CA 93907
NCFD, Station 3: 301 Elkhorn Road, Royal Oaks, CA 95076
North County Fire Protection District website at www.ncfpd.org

Note: If you believe you possess any disability that would require special accommodations in order to attend this meeting, please call North County Fire Protection District at 633-2578 or 722-7833.

The Regular meeting of the North County Fire Protection District Board of Directors was held on **May 17, 2022** at 11200 Speegle Street, Castroville, CA

The Board Chair called the meeting to order at 10:01 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Don Chapin, President
Jacqueline C. Simon, Vice President
Ramon Gomez, Secretary
Stanley Silva, Director
Peter Scudder, Director

Administration: Joel Mendoza, Fire Chief
Jess Mendoza, Division Chief
Rick Parker, Division Chief
Carolina Bravo, Administrative Officer

ADDITIONS & CORRECTIONS TO AGENDA:

No revisions or corrections to the agenda were received. Agenda to stand as posted.

PUBLIC COMMENTS:

None.

MINUTES:

Motion made by Vice President Simon, seconded by Director Scudder, to approve the April 12, 2022 regular board meeting minutes.

Motion carried; 4-0 (Director Silva abstained).

WARRANTS/PURCHASING CONSENT:

The Board reviewed the April and May 2022 Purchasing Consent Calendars and the Check Registers for March 2022 #50118 through #50137 (including direct deposit and electronic payments) for a monthly total of \$456,447.33 and for April 2022 #50138 through #50187 (including direct deposit and electronic payments) for a monthly total of \$1,350,007.62.

Motion made by Vice President Simon, seconded by Director Silva to approve the Consent Calendar and Check Register.

Motion carried; 5-0.

FINANCIAL REPORTS:

1. The March and April 2022 Revenue report (Item 5-A) was reviewed and received.
2. The March and April 2022 Expenditure report (Item 5-B) was reviewed and received.
3. The March and April 2022 County Treasury Reconciliation Summary (Item 5-C) was reviewed and received.
4. The March and April 2022 Comerica Bank Reconciliation Summary (Item 5-D) was reviewed and received.

5. The March and April 2022 Santa Cruz County Bank Reconciliation Summary (Item 5-E) was reviewed and received.
6. The March and April 2022 US Bank CAL-CARD Reconciliation Report and Expense Statement (Item 5-F) was reviewed and received.

CORRESPONDENCE:

None.

FIRE CHIEF REPORT:

Fire Chief Joel Mendoza presented the Chief's Report (Item 7-A) to the Board. The Board accepted the Fire Chief's report.

STAFF REPORT:

None.

OLD BUSINESS:

None.

NEW BUSINESS

1. Motion made by Vice President Simon, seconded by Director Scudder, to hire Kasavan Architects to assist in the District's facilities upgrade and repairs plan.
Motion carried 5-0.
2. Motion made by Director Scudder, seconded by Secretary Gomez to take action on Resolution.: 22-5-1 to continue assessments for FY22/23 preliminarily approving the engineer's report, and providing notice of a public hearing
Motion carried 4-0.
Roll call: Gomez- aye; Simon - aye; Chapin - aye; Scudder - aye; Silva - aye.

Motion made by Vice President Simon, seconded by Director Scudder to take action on Resolution.: 22-5-2 Resolution Certifying compliance with State law with respect to the levying of general and special taxes, assessments, and property-related fees and charges.
Motion carried 4-0.

Roll call: Gomez- aye; Simon - aye; Chapin - aye; Scudder - aye; Silva - aye.

BOARD OF DIRECTORS COMMUNICATION:

Vice President Simon expressed the importance of board member participation.

CLOSED SESSION:

None.

ITEMS FOR NEXT MONTH'S AGENDA:

Tuesday, June 21, 2022, at 10:00 A.M. at 11200 Speegle St., Castroville, CA 95012

- Prelim Budget
- Public hearing
-

ADJOURNMENT: 10:48 A.M.

Respectfully submitted by:

Carolina Bravo, Recorder

Don Chapin, President

Ramon Gomez, Secretary

Public Hearing to approve the engineer's report, confirming the assessment diagram and assessment and ordering the continuation of the levy of assessments for fiscal year 2022-23 for the Prop 218 Fire Protection and Emergency Response Services Assessment

PURPOSE:

A Public hearing to provide to have the NCFPD Board to vote to continue to collect assessments for the fire protection and emergency response services assessment for the fiscal year 2022-23.

OUTLINE: The District is required to renew by adopted resolution the Proposition 218 Fire Protection and Emergency Response Services Assessment. Further, the District must do this at a noticed public hearing.

RECOMMENDATION: That the Board take action approve Resolution 22-6-3, and approve the engineer's report confirming the assessment diagram and assessment and ordering the continuation of the levy of assessments for fiscal year 2022-23 for the Prop 218 Fire Protection and Emergency Response Services Assessment

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Joel Mendoza".

Joel Mendoza, Fire Chief

NORTH COUNTY FIRE PROTECTION DISTRICT

Resolution No.: 22-6-3

A RESOLUTION APPROVING THE ENGINEER'S REPORT, CONFIRMING THE ASSESSMENT DIAGRAM AND ASSESSMENT AND ORDERING THE CONTINUATION OF THE LEVY OF ASSESSMENTS FOR FISCAL YEAR 2022-23 FOR THE FIRE PROTECTION AND EMERGENCY RESPONSE SERVICES ASSESSMENT

WHEREAS, the North County Fire Protection District ("District") is authorized, pursuant to the authority provided in Government Code § 50078 and Article XIID of the California Constitution, to levy the continued assessments for Fire Protection and Emergency Response Services; and

WHEREAS, such Fire Protection and Emergency Response services provide tangible public safety benefits, other special benefits to the public and properties with the areas of service; and

WHEREAS, an assessment for Fire Protection and Emergency Response Services has been given the distinctive designation of the "Fire Protection and Emergency Response Services Assessment" (the "Assessment"), and is primarily described as encompassing the boundaries of the North County Fire Protection District; and

WHEREAS, the Assessment was authorized by an assessment ballot proceeding conducted in 2021 and approved by 58.11% of the weighted ballots returned by property owners, and such assessments were levied by the Board of Directors of the North County Fire Protection District by Resolution No. 21-6-1 passed on June 15, 2021;

WHEREAS, SCI Consulting Group, the Engineer of Work, prepared an engineer's report in accordance with Article XIID of the California Constitution and Section 50078, et seq., of the Government Code for the Assessment (the "Report"). The Report has been made, filed with the District and duly considered by the Board and is hereby deemed sufficient and approved. The Report shall stand as the Engineer's Report for all subsequent proceedings under and pursuant to the foregoing resolution.

WHEREAS, on May 17, 2022, this Board adopted Resolution No. 22-5-1 to continue to levy and collect Assessments for fiscal year 2022-23, preliminarily approving the Engineer's Report, and providing for notice of hearing on June 21, 2022, at the hour of 10:00 a.m. at the North County Fire Protection District offices, located at 11200 Speegle Street, Castroville, CA 95012.

WHEREAS, at the appointed time and place the hearing was duly and regularly held, and all persons interested and desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the continuation of Assessments were fully heard and considered by this Board, an all oral statements and all written protests or communications were duly heard, considered and overruled, and this Board there by acquired jurisdiction to order the continuation

of assessments prepared by and made a part of the Engineer's Report to pay the costs and expenses thereof.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the North County Fire Protection District that:

SECTION 1. The above recitals are true and correct.

SECTION 2. The public interest, convenience and necessity require that the assessments continue to be approved and collected.

SECTION 3. The Engineer's Report for the Assessment together with the proposed assessment roll for fiscal year 2022-23 is hereby confirmed and approved.

SECTION 4. That based on the oral and documentary evidence, including the Engineer's Report offered and received at the public hearing, the Board expressly finds and determines that: (a) each of the several lots and parcels of land subject to the Assessment will be specially benefited by the services to be financed by the assessment proceeds in at least the amount of the assessment apportioned against such lots and parcels of land, respectively; and (b) that there is substantial evidence to support , and the weight of the evidence preponderates in favor of, said finding and determination as to special benefit to property from the Fire Protection and Emergency Response Services to be financed with assessment proceeds.

SECTION 5. That assessments for fiscal year 2022-23 shall be levied at the rate of ONE HUNDRED DOLLARS AND EIGHTY FOUR CENTS (\$100.84) per single-family equivalent benefit unit, as specified in the Engineer's Report for fiscal year 2022-23 with estimated total annual assessment revenues as set forth in the Engineer's Report; and

SECTION 6. That the Fire Protection and Emergency Response Services to be financed with assessment proceeds described in the Engineer's Report are hereby ordered.

SECTION 7. Immediately upon the adoption of this resolution, but in no event later than August 10th following such adoption, the Board shall file a certified copy of the Diagram and Assessment and a certified copy of this resolution with the Auditor of Monterey County ("County Auditor"). Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the Assessment. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the North County Fire Protection District.

SECTION 8. All revenues from Assessments shall be deposited in a separate fund established under the distinctive designation of the North County Fire Protection District Fire Protection and Emergency Response Services Assessment.

SECTION 9. The Assessment, as it applies to any parcel, may be corrected, cancelled or a refund granted as appropriate, by order of the Board of Directors of the District. Any such corrections, cancellations or refunds shall be limited to the current fiscal year.

PASSED and ADOPTED by the Board of Directors of the North County Fire Protection District on June 21, 2022 by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

Board President

ATTEST:

Secretary

June 2022

North County Fire Protection District of Monterey County

Fire Protection and Emergency Response
Services Assessment



Engineer of Work:



4745 Mangels Boulevard
Fairfield, California 94534
707.430.4300
www.sci-cg.com

Pursuant to California Government Code Section 50078
et seq. and Article XIID of the California Constitution

North County Fire Protection District

Board of Directors

- Don Chapin, Board President
- Jacqueline C. Simon, Vice President
- Ramon Gomez, Secretary
- Stanley Silva, Director
- Pete Scudder, Director

District Staff

- Joel Mendoza, Fire Chief
- Jesus Mendoza, Division Chief
- Rick Parker, Division Chief
- Carolina Bravo, Administrative Officer

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Introduction

The North County Fire Protection District of Monterey County (“North County FPD,” “Fire District,” or “District”), is governed by an independent five-member board of directors and serves the communities of Castroville, Elkhorn, Las Lomas, Moss Landing, Oak Hills, Pajaro, Prunedale, and Royal Oaks in the north-most section of Monterey County. North County FPD was originally formed in 1949 as the Castroville Fire Department (“CFD”) and responded to emergencies within and immediately surrounding Castroville. A 1971 annexation brought Moss Landing and the Elkhorn area into Castroville’s jurisdiction. A 1981 study conducted by the Monterey County Local Agency Formation Commission (LAFCo) concluded that a fully consolidated fire District would provide the most cost effective and operationally efficient fire service from the North Monterey County area. Their recommendations were to consolidate Castroville Fire, Aromas Fire, and Salinas Rural Fire’s Station Two area (Prunedale) into one agency. This LAFCo recommendation was pursued by County Leaders and newly consolidated agency was formed in 1982 called the North County Fire Protection District of Monterey County.

North County FPD serves a population of just over 42,000 residents, covering 125 square miles from the coast on the west to the San Benito County line, (with the exception of the area covered by the Aromas Tri-County Fire District). It operates fire stations in Las Lomas, Prunedale, and Castroville. North County FPD responds to over 3,224 service calls per year, including structure fires, brush fires, and vehicle fires, traffic collisions, search and rescues, industrial accidents and hazardous materials incidents and emergency medical calls. In addition, North County FPD provides fire prevention, community education, emergency preparedness and other services relating to the protection of lives and property.

The 3 North County FPD stations are identified as:

Castroville Community

Station 1: Castroville Fire Station

Salinas to Aromas Community

Station 2: Prunedale Fire Station

Las Lomas, Royal Oaks, Pajaro, Parts of Prunedale, and Moss Landing Community

Station 3: Las Lomas Fire Station

Unlike most fire Districts in the region, North County FPD does not have any Special Taxes or Assessments in place to fund crucial fire protection services within the District. Instead, the District receives primary funding through a small portion of local property taxes, as well as other miscellaneous fees. The Fire District is not funded by the State or County, and has never received any funding from the now suspended Cal Fire Prevention Fee.

The Fire District is currently implementing significant budget cuts to streamline operations. These cuts are a direct impact of the loss of significant tax revenue from the reassessment of the Moss Landing power plant, as well as the expiration of the Fire District's SAFER Grant in February 2019, which provided funding for 5 full-time firefighters. On June 30, 2019 the 5 Safer Grant firefighters were laid off. The Fire District has made other budget cuts, deferring equipment rehabilitation and replacement (up to seven years in some cases), and staffing reserve firefighters, instead of full time positions.

Subsequently, in 2019, after a failed 2018 parcel tax measure and also due to the instability of grant funding, the Fire District was forced to reduce its staff by 33% and the permanent fire chief position remains unfilled. The reduction in staff has negatively impacted the Fire District's ability to provide an adequate number of firefighters on the scene of an emergency incident. For example, most engine companies in Monterey County are staffed by 3 or 4 personnel each but with the current staffing model North County FPD engine companies are only staffed by 2 personnel (Fire officer and Firefighter) which significantly reduces the effectiveness of the Fire District's response.

The property owners within the North County FPD currently receive an Insurance Service Office (ISO) fire protection class of 4 and 10. The Fire District has been notified that it will soon be evaluated by ISO, and a new classification will be issued based on the District's ability to provide fire protection services. Under the current guidelines, the District's Fire Protection Class is largely based (50% of the total score) on how well a Fire Agency can protect the community it serves. With the current reduced staffing levels and the number of personnel they can effectively put on a structure fire, the ISO rating is in serious jeopardy of increasing.

"The District's Insurance Services Office (ISO) grade is weighted on the number, type, and age of apparatus. Any negative impact to the District's ISO grade such as utilizing apparatus beyond the 25 year life expectancy could result in higher insurance premiums for our residential and commercial property owners."

Over the last year, several North County residents have also reported that their home insurance policies have been terminated because they lived in a Wildfire Urban Interface. This is a designation given to California's most vulnerable homes built just close to wildland. Facing increased losses, some California property insurers are now reducing the number of policies they issue in California protecting properties in which wildland fire risk is elevated. (Insurers are responding to the fact that damages have mounted to billions of dollars lost in destructive and deadly fires such as the Camp fire in Butte County, and Tubbs fire in Napa and Sonoma Counties.) In the past, the Fire District has been able to provide property owners with letters to insurers stating a good standing ISO rating and this has allowed them to stay insured. A drop in ISO rating could result in either a complete loss of homeowners' coverage or a much higher cost perhaps with less coverage.

North County FPD seeks to return to a higher level of fire protection and emergency response service by returning to appropriate staffing levels and providing for improved apparatus replacement, maintenance of facilities, and improved equipment replacement. This Engineer's Report supports an assessment to enhance existing funding sources and associated services and equipment, and to fund these improved services and equipment. The rates for this assessment are shown in Table 1, below.

Table 1 – Proposed Assessment Rates

Property Type	Proposed Rate	Fire Risk Factors	Replacement		Unit
			Cost Factors	SFE Factors	
Single Family	\$ 100.84	1.0000	1.0000	1.0000	each
Multi-Family	\$ 59.24	2.3220	0.2530	0.5875	res unit
Commercial/Industrial	\$ 291.86	5.2150	0.5550	2.8943	acre
Office	\$ 204.72	1.5524	1.3078	2.0302	acre
Storage	\$ 603.40	13.0438	0.4587	5.9837	acre
Parking Lot	\$ 27.03	0.3179	0.8433	0.2681	each
Vacant	\$ 27.03	0.3179	0.8433	0.2681	each
Agriculture	\$ 4.43	1.2310	0.0357	0.0440	acre
Range Land & Open Space	\$ 0.09	0.0935	0.0094	0.0009	acre

The proposed assessment rates are used along with the relative fire hazard zone factor and the relative travel time factor to calculate the assessment for each parcel. These factors are explained in more detail beginning on page 25.

This Engineer's Report (the "Report") was prepared to:

- Describe the fire suppression, safety and emergency response services and equipment that would be funded by the assessments (the "Services")
- Establish a budget for the Services that would be funded by the assessments in 2022-23
- Determine the special benefits received from the proposed Services by property within the North County Fire Protection District Assessment (the "Assessment District"), and
- Describe the method of apportionment to lots and parcels within the Assessment District.

This Report and the proposed assessments have been made in compliance with California Government Code Section 50078 et seq. (the "Code") and Article XIID of the California Constitution (the "Article").

The Assessment District is narrowly drawn to include only properties that directly receive the additional fire protection and prevention services provided by the assessment funds and are specially benefited from such Services. The Assessment Diagram included in this Report shows the boundaries of the Assessment District.

Legal Analysis of Proposition 218

The proposed assessment complies 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 Articles XIIC and XIID 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 of a public improvement that provide a special benefit to the assessed property.

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

Silicon Valley Taxpayers Association, Inc. v Santa Clara County Open Space District (2008) 44 Cal.4th 431

On July 14, 2008, the California Supreme Court issued its ruling in *Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space District* (“*Silicon Valley*”). Several of the most important elements of the ruling are:

- 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

Dahms v. Downtown Pomona Property (2009) 174 Cal.App.4th 708

On June 8, 2009, the Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court granted review and transferred the case back to the Court of Appeal for reconsideration in light of the Supreme Court’s discussion in the *Silicon Valley* case. In *Dahms*, the Appellate Court then upheld the assessment that was 100% special benefit (i.e. 0% general benefit) holding that the services and improvements funded by the assessments were directly provided to property in the assessment District. The Court also upheld discounts and exemptions from the assessment for certain properties.

Bonander v. Town of Tiburon (2009) 46 Cal.4th 646

On December 31, 2009, the 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 grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district, instead of each individual property’s proportional special benefits.

Beutz v. County of Riverside (2010) 184 Cal.App.4th 1516

On May 26, 2010, the California Court of Appeal issued its decision in *Steven Beutz v. County of Riverside* (“*Beutz*”). 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 (2011)199 Cal.App.4th 416

On September 22, 2011, California Court of Appeal issued its decision in *Golden Hill Neighborhood Association v. City of San Diego*. 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, as 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 document the basis for the assessment on city-owned parcels.

Concerned Citizens for Responsible Government v. West Point Fire Protection District (2011)149 Cal. Rptr. 3d 640

On November 28, 2012, the California Supreme Court dismissed as moot petitioners' appeal in the case of *Concerned Citizens for Responsible Government v. West Point Fire Protection District*. The Supreme Court had granted review of the Court of Appeal's decision in this case early in July 2012 after several local government organizations petitioned the Court to have the Court of Appeal's decision de-published because of its apparent conflicts with the California Constitution and potentially overly broad impact on other assessments. The Supreme Court's grant of review caused the Court of Appeal decision to be de-published. The Supreme Court eventually dismissed the appeal as moot.

For fire agencies, the most concerning aspect of the decision from the Court of Appeal was its statement that fire services (as opposed to improvements) may be in whole or in part a general benefit, and therefore unsuitable for funding with an assessment. Fortunately, the Court of Appeal's decision remains unpublished, and cannot be cited as binding precedent.

Compliance with Current Law

This Engineer's Report is consistent with the requirements of Article XIII C and XIII D of the California Constitution and with the *Silicon Valley* decision because the Services to be funded are clearly defined; the Services are available to and will be directly provided to all benefited property in the Assessment District; the Services provide a direct advantage to property in the Assessment District that would not be received in the absence of the assessment; and the Services are benefits that are over and above general benefits conferred on real property located in the North County FPD or to the public at large by other public entities that make up the membership of North County FPD.

This 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. More specifically, as discussed hereafter, the Services afford benefits specifically unique and supplied only to property owners within the District, with a corresponding effect that is not shared by other parcels outside of the District or real property in general, including the public at large. While *Dahms* could be used as the basis for a finding of 0% general benefits, this Engineer's Report establishes a more generous separation and quantification of general benefits.

This Report is also consistent with *Bonander* because the Assessment has been apportioned based on the proportional special benefit to each property. Furthermore, the Assessment is consistent with *Beutz* and *Golden Hill* because the general benefits have been explicitly calculated, quantified, and excluded from the Assessment.

DRAFT

Engineer's Report and Continuation of Assessment

In order to allow property owners to ultimately decide whether additional funding should be provided for the District's fire protection, suppression, and emergency response services, the Board, on March 16, 2021, authorized the initiation of proceedings for a benefit assessment to provide local funding for improved services and related costs. The assessment was named the Fire Protection and Emergency Response Services Assessment (the "Assessment District"). In March through June of 2021, the District conducted an assessment ballot proceeding pursuant to the requirements of Article XIID of the California Constitution ("The Taxpayer's Right to Vote on Taxes Act") and the Government Code. During this ballot proceeding, owners of property in the Assessment District were provided with a notice and ballot for the special assessment. A 45-day period was provided for balloting and a public hearing was conducted on June 15th, 2021.

It was determined at the public hearing that 58.11% of the weighted ballots returned were in support of the assessment. Since 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), the Board took action, by resolution, to approve the levy of the assessments for fiscal year 2021-22 and to continue to levy them in future fiscal years. The initial maximum assessment rate balloted and established in Fiscal Year 2021-22 was \$97.91 per single family equivalent benefit unit. The levies were submitted to the Monterey County Auditor for inclusion on the property tax rolls for fiscal year 2021-22. The authority granted by the ballot proceeding includes an annual adjustment in the maximum authorized assessment rate equal to the annual change in the Consumer Price Index for San Francisco Bay Area Consumer Price Index-U, for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the previous fiscal year adjusted annually by the change in the CPI or by 3%, whichever is less. Board took action, by Resolution No. 21-6-1 passed on June 15th, 2021, to approve the levy of the assessments.

The maximum authorized assessment rate is equal to the maximum assessment rate in the previous fiscal year adjusted annually by the change in the CPI or by 3%, whichever is less. Based on the preceding annual adjustments, the maximum possible assessment rate for Fiscal Year 2021-22 was \$97.91 per single family equivalent benefit unit. The annual change in the CPI from December 2020 to December 2021 was 4.24%. Therefore, the maximum authorized assessment rate for Fiscal Year 2022-23 has been increased by 3%, from \$97.91 to \$100.84 per single family equivalent benefit unit. The estimate of cost and budget in this Engineer's Report justifies assessment of the authorized assessment rate and hence, proposes assessments for fiscal year 2022-23 increase to the rate of \$100.84 per single family equivalent benefit unit.

In each subsequent year for which the assessment will be continued, an updated proposed budget, assessment rate and an updated assessment roll listing all parcels and their proposed assessment for the upcoming fiscal year shall be prepared and considered by the Board of Directors. At this meeting, the Board will also call for the publication in a local newspaper a legal notice of the intent to continue the assessment 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 Board prior to the Board's decision on continuing the services and assessment for the next fiscal year.

If the assessment is so confirmed and approved, the levies would be submitted to the Monterey County Auditor/Controller for inclusion on the property tax roll for Fiscal Year 2022-23.

Description of Services

North County FPD provides a range of fire suppression, protection, prevention, and other fire and emergency related services to properties within its boundaries.

This proposed benefit assessment would provide funding for two major areas of service improvements for its fire suppression and protection operations.

- Increased Firefighter Staffing and Training
- Improved Maintenance and Replacement of Apparatus and Equipment

The formula below describes the relationship between the final level of services, the baseline level of service based on existing funding, and the enhanced level of services funded by the assessment if it is approved. It should be noted, due to the fact that current operating costs are increasing at a faster rate than current funding sources, the baseline level of services is diminishing over time.

<i>Final Level of Service</i>	=	<i>Current Baseline Level of Service</i>	+	<i>Proposed Enhanced Level of Service</i>
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Below is a more detailed description of these improvements that are provided for the special benefit of property in the Assessment District.

Increased Firefighting Staffing and Training

Firefighting emergency response staffing levels are described colloquially in terms of “speed and weight,” with speed describing the response time and weight describing the number and types of personnel. Also, staffing levels are also commonly described in terms of the number of firefighting staff per fire truck and/or apparatus, such as “4 on an initial response” or “3 on an initial response”. North County Fire is satisfied with its response time (“speed”) but has determined that its staffing levels (“weight”) at “2 on an initial response” are insufficient.

Although there are many approaches to deploying firefighting staff, OSHA guidelines place strict requirements on operations, particularly when firefighters are required to enter potentially Immediately Dangerous to Life and Health (IDLH) environments such as structure fires. In these atmospheres, OSHA requires that personnel use self-contained breathing apparatus (SCBA), that a minimum of two firefighters work as a team inside the structure, and that a minimum of two firefighters be on standby outside the structure to provide assistance or perform rescue. Essentially the “2 in, 2 out” rule severely limits North County FPD’s ability to respond effectively to many types of emergencies. The challenge is compounded in the case of multiple calls. North County FPD has determined that an increase in staffing would significantly increase its effectiveness, as well as compliance with OSHA requirements, and would benefit the property owners with heightened levels of property and human life protection.

Improved and increased firefighting staffing levels will significantly contribute to improved safety and protection of real property within the proposed Assessment District. The proposed assessment is intended to provide funding for additional full-time-staffing, and some additional training. The costs for the proposed staffing increases to support implementation of “4 on an initial response” staffing are included in the Table 3 Budget.

Improved Maintenance and Replacement of Apparatus and Equipment

Much of North County FPD’s fleet is aging and in need of replacement, and includes active equipment and apparatus up to 30 years old. The recommended lifespan for a frontline engine is 10-20 years. Obsolete fire engines are unreliable and expensive to repair. Currently the vehicle replacement schedule has been deferred in an effort to reduce costs. Table 2 below lists all the current apparatus in operation in the District. They are listed by the year they were purchased, original purchase price, anticipated life span and the cost of replacement based on the anticipated life span. Items in red are overdue for replacement.

Table 2 – Current Apparatus in Operation

Type of Vehicle	Purchase Year	Purchase Price	Life Span	Replacement Year	Replacement Cost (based on 2019 pricing)
Brush Fire Engine	1988	\$107,570	20	2008	\$575,000
Fire Engine/Plumper	1990	\$170,000	20	2010	\$575,000
Beach Rescue	1998	\$26,800	15	2013	\$65,000
Utility Pickup	1998	\$25,693	15	2013	\$55,000
Command Vehicle	2004	\$22,545	10	2014	\$70,000
Fire Engine/Plumper	1996	\$266,059	20	2016	\$575,000
Fire Engine/Plumper	1996	\$170,000	20	2016	\$575,000
Command Vehicle	2006	\$37,145	10	2016	\$70,000
Utility SUV	2001	\$50,000	15	2016	\$75,000
Command Vehicle	2007	\$43,238	10	2017	\$70,000
Utility Pickup	2002	\$45,000	15	2017	\$55,000
Command Vehicle	2008	\$22,545	10	2018	\$70,000
Water Tender	1995	\$280,511	25	2020	\$425,000
Brush Fire Engine	2001	\$200,271	20	2021	\$438,818
Brush Fire Engine	2001	\$200,271	20	2021	\$438,818
Fire Engine/Plumper	2003	\$350,327	20	2023	\$575,000
Fire Engine/Plumper	2003	\$350,327	20	2023	\$575,000
Heavy Rescue	2005	\$247,034	20	2025	\$400,282
Ladder/Pump Truck	2001	\$490,310	25	2026	\$850,500
Water Tender	2004	\$192,629	25	2029	\$425,000
Fire Engine/Plumper	2010	\$435,000	20	2030	\$575,000
Total Apparatus Replacement Costs:					\$7,533,418

North County FPD desires to ensure maintenance and replacement of apparatus in order to maximize safety and effectiveness for fire suppression. Improved maintenance and replacement will significantly contribute to improved safety and protection of real property within the proposed Assessment District. If approved, the proposed assessment will fund a Dedicated 10-Year Apparatus and Equipment Replacement Plan, and an allocation of \$753,342 has been included in the Table 3 budget (\$7,533,418 from Table 2 divided by 10 years = \$753,342). It should be noted that the need for equipment replacement will be on going beyond the 10 years.

Capital Repairs

North County FPD operates out of 3 primary facilities, the Castroville station, the Prunedale station, and the Las Lomas station. Some of the funds from this assessment would allow for critical repairs to be completed across all stations such as new flooring, domestic plumbing, septic system updating, repairs to concrete/asphalt for parking, driveways, etc.

Other Services and Supplies

The Table 3 budget includes and summarizes budget allocations for miscellaneous other services and supplies, including capital repairs, equipment operation and maintenance, facilities maintenance and operation, professional services, supplies and materials, utilities and administration in support of North County FPD's operations.

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Cost and Budget

The following budget lists the proposed expenditures funded by the Assessment District in Fiscal Year 2022-23.

Table 3 – Cost and Budget

North County Fire Protection District Improved Fire Protection and Emergency Response Assessment Estimate of Costs Fiscal Year 2022-23		<i>Total Budget</i>
Service Needs		
Firefighter Staffing and Training		\$7,136,954
Capital Purchases		\$887,000
Other Services and Supplies		\$1,452,199
Total Service Needs (a)		\$9,476,153
Less: County Fire Contribution for General Benefit (b)		(\$8,142,019)
Net Cost of Servicing to Assessment District (a-b)		\$1,334,134
Allowance for implementation of assessment and county collection (c)		\$107,222
Allowance for uncollectable assessments		\$18,000
Total Fire Suppression and Protection Services Budget (a-b+c) (Net Amount to be Assessed)		\$1,459,356
Assessment District Budget Allocation to Parcels		
Total Assessment Budget		\$1,459,356
Effective Single Family Equivalent Benefit Units in Assessment District ²		14,472
Assessment per Effective Single Family Equivalent Unit (SFE)		\$100.84

The "Services Needs" cost estimates are presented in the budget table above for the 2022-23 fiscal year only, but are based upon financial forecasting over a 10 year cycle and beyond. This forecasting concludes that these costs these will likely persist consistently into the future. For example, the Dedicated 10-Year Apparatus and Equipment Replacement Plan shown in Table 3 supports the annual \$753,342 is reflected in capital purchases budget listed above, and is consistent with predicted ongoing replacement costs beyond this fiscal year. This amount of \$753, 342 will be included within the capital repairs until fiscal year 2031-32.

Consistent with the General benefit requirement described later in this Report, at least 20% of the total cost of the NCFPD Fire Services must be funded from sources other than this proposed assessment to

cover any general benefits from the Services. Therefore, the cost of Services of \$1,459,356, funded by the proposed assessment, can be funded exclusively through the assessment levy as a special benefit since the current County contributions from its dedicated ad valorem property taxes, remaining fund balance and the existing benefit assessment exceed approximately 85.92% of the total cost of NCFPD Fire Services, far in excess of the above required 20% non-assessment general benefit funding requirements. The 85.92% funding is from property taxes and other sources.

(b) Other sources includes Penalties; In-Lieu Taxes; Interest; Federal, State and Other Misc Grants; Inspection Charges; Permit Processing Fees; Cost Recovery; Insurance Premium Charges; Other Charges; Insurance Proceeds; Sales of Fixed Assets and Fund Balance.

(h) The Total SFEs are the sum of the assigned Single Family Equivalent units for each affected parcel based upon a parcel-by-parcel analysis of the service area consistent with the Method of Apportionment described later in the Report.

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Method of Apportionment

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

The Assessment District area consists of all Assessor Parcels within North County FPD boundaries. The method used for apportioning the assessment is based upon the proportional special benefits from the Services to be provided to 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 improved services
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

Implementation of an Assessment for Fire Protection Services

California Government Code Section 50078 et. seq. allows agencies which provide fire suppression services, such as NCFPD Fire, 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 to be provided by the Assessment District fall within the scope of services that may be funded by assessments under the Code.

The assessment must be levied based on the special benefit to property. Special benefit means a particular and distinct benefit received by property over and above any general benefits conferred on real property located in the Assessment District or the public at large. With reference to the requirements for assessment, 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 XIID 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 XIII A of the California Constitution.

The following 2 sections describe how and why the Fire Protection Services specially benefit properties. This special benefit is particular and distinct from its effect on other property, and that other real property and the public at large do not share the special benefit.

Overview of Special Benefits from Fire Protection Services

Special Benefit is defined in Article XIID of the California Constitution as a "particular and distinct benefit over and above general benefits." The proposed services and improvements provide "particular and distinct" benefit because they are distinctly defined and described, and are provided directly to the parcels within the Assessment District boundaries. The proposed services and improvements are "over and above general benefits" supplied by the member agencies of the North County FPD.

Moreover, this assessment for fire protection services can be clearly contrasted with assessments for parks and recreation, or even open space, as addressed in *Silicon Valley*, because fire services are provided directly to individual parcels in the form of fire prevention and suppression; by contrast, property owners must travel from their properties to dispersed locations to fully enjoy the benefits of parks and open space.

In summary, real property located within the boundaries of the proposed Assessment District distinctly and directly benefits from increased safety and protection of real property and human life in the Assessment District.

Description of Special Benefit From Fire Protection Services

In order to allocate the assessments, the special benefit arising from the Services that will be provided to property in the Assessment District has been identified and described below. This special benefit must confer a direct advantage to the assessed properties; otherwise it would be general benefit, as described further in this report.

The following special benefit confers to residential, commercial, industrial, institutional, and other lots and parcels resulting from the improved fire protection and emergency response services that will be provided in the Assessment District. This special benefit is summarized as follows:

Increased safety and protection of real property assets for all property owners within the Assessment District.

The proposed Assessments will fund improved fire suppression, prevention, protection and emergency response services, and thereby can significantly reduce the risk of property damage, human injury, or death associated with fires within the assessment District. 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

"The strategies and techniques to address fire risks in structures are known. When implemented, these means have proven effective in the reduction of losses."³

The proposed improved fire suppression, prevention, protection, and emergency response services support this special benefit by providing North County FPD with the needed resources to protect real property from uncontrolled fires.

The proposed increased firefighting staffing supports this special benefit by providing needed personnel resources. For instance, current OSHA regulations require that two firefighters remain outside a structure during an emergency response to a structure fire, while two firefighters may enter. *(This OSHA Policy is documented as United States Department of Labor - Occupational Safety and Health Administration — OSHA Regulation "2 in 2 out"— The "2In/2 Out" policy is part of paragraph (g)(4) of OSHAs revised respiratory protection standard, 29 CFR 1910.134.)*

This “2 in, 2 out” requirement places significant limitations on North County FPD’s ability to respond to structure fires, particularly when second and third calls are made. The proposed assessment would allow North County FPD to optimize staffing levels and satisfy the “2 in, 2 out” requirement on significantly more emergency calls. Properties receive direct special benefit from the increased staffing because the increase in staffing in turn increases the likelihood that property and life will be protected. For example, if only three firefighters are available to respond to a structure fire, no firefighter would be allowed to enter the structure – potentially impeding the ability to conduct a rescue operation or critical fire suppression activity.

The increased firefighting staffing specifically satisfies the strict legal requirements of the *Silicon Valley* decision in that these Services are clearly defined, are available to and will be directly provided to all benefited property, and will provide a direct advantage that would not be received in the absence of the assessment.

General Versus Special Benefit

Article XIII D 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.”

In other words:

$$\text{Total Benefit} = \text{General Benefit} + \text{Special Benefit}$$

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, therefore, can fund special benefits but cannot fund general benefits.

Please note that the property owners of the parcels subject to the assessment *should not* and *cannot* be required to pay for the general benefits arising from the proposed service and equipment improvements – this is an essential assessment-payer-protection requirement of all Proposition 218–compliant assessments. In order to clearly and overwhelmingly satisfy this important requirement, the general benefit has been calculated in each step favoring its reasonable maximum to totally avoid any possibility that the total general benefit to be funded from other sources is under-calculated.

There is no statutory formula to calculate, quantify and separate general benefit in support of benefit assessment analysis. 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, or the public at large. *Silicon Valley* provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements. Again, in this Report, the general benefit is generously estimated and described, and then budgeted so that it is funded by sources other than the assessment. Although there is not an industry standard for this general benefit calculation, the three-component (plus an adjustment for emergency medical) approach shown in the formula below has been the most-widely used.

<p>1.) <i>Benefit to Real Property Outside the Assessment District</i></p> <p>+ 2.) <i>Benefit to Real Property Inside the Assessment District that is Indirect and Derivative</i></p> <p>+ 3.) <i>Benefit to the Public at Large</i></p> <p>+ <i>(Adjustment for Emergency Medical Services)</i></p>
<p>= <i>General Benefit</i></p>

Special benefit, on the other hand, is defined in the California 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 *Silicon Valley* decision indicates that a special benefit is conferred to a property if the property “receives a direct advantage from the improvement (e.g., proximity to a park).” In this assessment, as noted previously, 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 the benefits are only minimally received by property outside the Assessment District or the public at large.

Calculating General Benefit

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

1.) 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. (It should be noted that the Services may, at times, be used outside the North County FPD boundaries. However, this use is part of a mutual aid agreement and is offset, at least in part, by the provision of Services by other outside agencies within the Assessment District boundaries.)

Properties proximate to, but outside of, the boundaries of the Assessment District receive some benefit from the proposed Services due to some degree of indirectly reduced fire risk to their property. Specifically, the parcels immediately contiguous to North County FPD's boundaries enjoy a reduction to the possibility of a fire "jumping" from an adjacent structure (within the North County FPD boundaries) because North County FPD controls structure fires within its boundaries. Because North County FPD's primary role is directed towards structure fires, as opposed to wildland fires, and structure fires generally "jump" more slowly, it is reasonable to only consider the directly adjacent, but outside, parcels. These are estimated to receive some benefit relative to parcels within the Assessment District, but they do not directly receive the improved fire protection resulting from the Services funded by the Assessments.

At the time the Assessment was proposed, the Engineer of Work, using the Geographic Information Systems, quantified the number of parcels proximate to the Assessment District boundary but outside the Assessment District, and thereby determined that there were approximately 313 directly adjacent properties. Further consideration of the types, use, location and other attributes of the outside but proximate parcels is not warranted due to numeric insignificance, and would not materially increase the accuracy of this analysis:

313 parcels outside NCFPD but proximate to the NCFPD Boundaries

11,233 parcels in the Assessment District.

Calculation:

General Benefit to Property Outside the Assessment District =

$313 / (10,842+313) = 2.81\%: \sim \text{rounded to } 5.0\%$

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, through mutual aid agreements. However, this analysis uses the more generous approach of finding that 5.0% of the Services may be of general benefit to property outside the Assessment District, and cannot be funded by this assessment.

2.) Benefit to Property Inside the District that is *Indirect and Derivative*

In determining the proposed Assessment District area, North County FPD has been careful to only include 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 maintain the same improved level of fire suppression and protection throughout the area. Fire protection and suppression will be provided as needed throughout the area. The shared special benefit - reduced severity and number of fires - would be received on an equivalent basis by all parcels in the Assessment District due to the proposed increased funding. Furthermore, all parcels in the Assessment District would directly benefit from the ability to request or receive service from North County FPD and to have a North County FPD resource promptly respond directly to the parcel and address the owner's or resident's service need.

The *Silicon Valley* 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 or improvement of a local government service to benefit lands. This Report therefore concludes that, other than the general benefit to properties outside the Assessment District (discussed above) and to the public at large (discussed below), the general benefit from the fire protection services that is "indirect and derivative" is negligible.

3.) Benefit To 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.

The public at large uses the public highways, and when traveling in and through the Assessment District the public 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 North County FPD, this protection 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 throughway street area within the Assessment District relative to the overall land area. An analysis of maps of the Assessment District shows that approximately 1.0% of the land area in the Assessment District is covered by highways and throughway streets.

A 5.0% contribution therefore is a generous, fair and appropriate measure of the general benefit to the public at large within the Assessment District and cannot be funded by this assessment.

Adjustment to Account for Emergency Medical Services as General Benefit

For the purposes of this Report, an additional adjustment has been made to the general benefits calculation to account for general benefits that may result from the District's rescue and emergency medical services ("EMS") associated with the proposed Services. *(Limitations on the appropriateness of Proposition 218-compliant assessments to fund EMS is still debated - in any case, this assessment does not include funding for EMS).* This assessment is designed to provide funding for fire protection and emergency response services, including fire-related and non-fire-related rescue and associated medical services. However, it is not designed to fund typical, non-fire/non-rescue medical calls (e.g., a cardiac arrest medical call).

North County FPD is authorized to provide EMS in addition to its primary responsibility of fire prevention and suppression. In fact, a significant portion of North County FPD's emergency service calls are associated with providing EMS. Nonetheless, the largest portion by far of the costs associated (over 97%) with operating North County FPD is support for fire suppression services as illustrated in Table 4, below.

Incremental costs associated with non-fire/non-rescue emergency medical service include almost exclusively the operating costs associated with transportation to such calls such as fuel, maintenance and depreciation. For further clarification, these are costs that are only incurred because of EMS, and do not include fixed costs such as personnel who would be on active duty in any case as well (as the associated training), and would therefore be incurred in any event in satisfying North County FPD's primary responsibility of fire protection and suppression.

Evaluation of the transportation associated with non-fire/non-rescue emergency medical calls for several similar fire districts in California indicates that typically around 2% of overall operating costs are for such calls. A 2021-22 analysis of North County FPD's actual additional costs for non-fire/non-rescue emergency medical calls is shown in Table 4, below, and supports an adjustment of 8.96%. This adjustment has generously been rounded up to 10%. These numbers are reflective of annual costs within the 2021-22 balloting year.

Table 4 – Emergency Medical Expenses Versus Overall Budget

EMS Expense	Annual Costs
EMS Fuel Cost	\$40,248.00
EMS Apparatus Operations and Maintenance Cost	\$104,644.80
EMS Supplies and Equipment	\$566,773.01
Annual EMS Training and Certification Costs	\$3,689.40
Total EMS Cost (a)	\$715,355.21
Total Budget from Table 4 (b)	\$7,983,825
Percentage of Total Budget on Emergency Medical (a/b)	8.96%

The assessment, as indicated through this Report, will exclusively go to fund special benefits conferred upon the properties within North County FPD boundaries, while EMS is directly funded from North County FPD through non-assessment sources including property taxes. For purposes of this Report, EMS costs over and above those necessary for fire suppression have been treated as general benefits, and it is conceded that these general benefits may exist at the same percentage for the proposed Services as with the existing baseline services. Therefore, it can be concluded that NCFPD Fire's services are 8.05% general as a result of providing EMS services-Again, the engineer is requiring a 10% adjustment for this component.

Summary of General Benefits

Using a sum of the measures of general benefit for the public at large and land outside the Assessment Area, we find that approximately 20% of the benefits conferred by the proposed Fire Protection and Emergency Response Assessment may be general in nature and must therefore be funded by sources other than the assessment.

General Benefit Calculation

5.0%	(1. Outside the Assessment District)
+ 0.0%	(2. "Indirect and Derivative" Property within the Assessment District)
+ <u>5.0%</u>	(3. Public at Large)
= 10.0%	(Subtotal of General Benefit)
+ <u>10.0%</u>	(Emergency Medical Adjustment)
= 20.0%	(Total of General Benefits)

The Assessment District's total budget for 2022-23 is \$9,476,153. Of this total assessment budget amount, the County will contribute at least \$8,142,019 which is more than 80% of the total budget from sources other than this proposed assessment including dedicated property taxes and the existing benefit assessment. This contribution constitutes significantly more than the 20% general benefits estimated by the Assessment Engineer, which must be paid for by non-assessment sources.

Zones of Benefit

The Assessment District has been narrowly drawn. The assessments will fund improved fire protection services relatively uniformly throughout the Assessment District. Properties of similar type will receive essentially equivalent types of special benefit with reasonable, parcel-by-parcel adjustments for fire hazard zone and proximity to fire stations (as explained later in the Method of Assessment section), and no broad, widespread Zones of Benefit are needed. Instead, each parcel is subject to geographic factors, acting as effective individual mini-zones.

The Assessment Area is extremely rural, and includes a patchwork of areas of high and very high fire risk. Further, travel by roadway throughout the Assessment Area is very limited, and travel times from stations to specific parcels vary greatly. Accordingly, in lieu of traditional Zones of Benefits, the specific benefit of each parcel is individually calculated and adjusted for both fire risk zone and response travel time.

Assessment Apportionment

The Assessment Engineer determined that the appropriate method of assessment should be based on the type of property, the relative risk of fire by type of property, the relative fire hazard zone factor, the relative travel time factor, the relative size of the property, and the relative damage value (replacement cost) of fires by property type. 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 (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 Report, all properties are assigned an SFE value, which is each property's relative benefit in relation to the benefit received by a single family home on one parcel.

The relative benefit to properties from fire related services is:

Equation 1 – Relative Special Benefit to Properties

Special Benefit =

$$\Sigma(\text{Fire Risk Factors}) * \Sigma(\text{Structure Replacement Factors}) * \Sigma(\text{Location/Topography Factors})$$

Simply put, the special benefit conferred to property is the product of the fire risk, the structure replacement costs and the location and topographic factors.

Typically, the development of the rate methodology for fire assessments is based upon fire risk and structure value. However, in this case, due to the particular nature of NCFPD fire hazards and terrain, two additional factors (Fire Hazard Zone and Proximity (Travel Time)) were added in support of a uniquely rigorous and detailed, parcel-by-parcel development of rate and assessment.

For example, by this formula, a hypothetical parcel used for a high fire risk operation (i.e., a fireworks factory), with high value structures, in a high fire hazard zone and very close to a fire station, receives a high amount of special benefit. Conversely, a vacant lot not in a high fire hazard area and a long way from a fire station would receive far less special benefit. It follows that the special benefit, and accordingly, the assessment amount, should be calculated and assigned consistent with this logic.

Overview of Approach

Each parcel is evaluated and the special benefit is calculated using 4 attribute criteria:

Risk and Replacement Factors

- | | |
|---------------------------------|---------------|
| 1.) Fire Risk | (see Table 5) |
| 2.) Structure Replacement Value | (see Table 6) |

These factors are summarized in Table 7

Location and Topography Adjustments

- | | |
|---|---------------|
| 3.) Location and Topography - Hazard Zone | (see Table 8) |
| 4.) Location and Topography - Proximity (Travel Time) | (see Table 9) |

Overview of Normalization in Adjustments in Multi-Attribute Analysis

One of the greatest engineering challenges in modeling and calculating special benefit on a specific parcel is the need to balance the effect of various attributes in a multi-attribute analysis. In this case, the special benefit method of apportionment is based upon four different attributes and each must be “weighted” to affect the overall special benefit calculation in a reasonable way, commensurate with their effect on the overall special benefit. The general approach taken is to adjust each attribute value towards a reasonable proportion of 1, such that it is consistent with the base unit of 1 Single Family Equivalent. See the “Area Adjustment Factor” used in Table 6 and the Impact Factor used in Tables 8 and 9.

1.) Fire Risk Factors

This fire risk is based upon the specific parcel type and use, including use of structure (e.g., used for cooking), type of structure (centralized heating), etc.

In 2018, the National Fire Protection Association (“NFPA”), one of the preeminent authorities on fire protection in the United States, published the Structure Fires by Occupancy 2012-2016 Annual Averages Report. This report comprehensively tabulates the number of fires for each classification of property type within the United States from 2012-2016, and serves as a reasonable and rational basis to determine fire risk.

The percent of fires for each property is then divided by the total number of that property type to determine un-normalized fire risk factors. Finally, the risk factors are normalized based upon a factor of 1.00 for a single family property. Table 5 below tabulates the Fire Risk Factors for each property type.

Table 5 – Normalized Fire Risk Factors

Property Type	Percentage of Study Units(a)	Percentage of Fires(b)	Risk Factor(b/a)	Normalized Risk Factor
Single Family	68.4%	52.9%	0.7742	1.0000
Multi-Family	13.1%	23.5%	1.7977	2.3220
Commercial/Industrial	3.4%	13.7%	4.0375	5.2150
Office	0.6%	0.7%	1.2019	1.5524
Storage	0.5%	4.7%	10.0987	13.0438
Parking Lot(1)	NA	NA	0.0000	0.3179
Vacant	11.7%	2.9%	0.2461	0.3179
Agriculture	1.7%	1.6%	0.0000	1.2310
Range Land & Open Space	0.8%	0.1%	0.0724	0.0935

Structure Fires by Occupancy 2012-2016 Annual Averages, NFPA, and an analysis of the percentage of properties by property type in the State of California by SCI

(1) This study did not provide sufficient analysis to develop risk factors for parking lots, so the vacant property type is used as a proxy.

The effect of installed fire sprinklers on the special benefit received from the proposed services must be tempered by the fact that many factors including fire type, weather, roofing material, building materials response time, defensible space, use of working smoke detectors, type of windows, maintenance of sprinkler system, etc. likely more significantly affect fire protection. These factors are incorporated into our analysis. Sprinklers have been required for commercial parcels for many years, and so that element is already incorporated into our risk analysis. However, sprinklers for new and renovated residential structures have become required more recently. Special cases will be considered as part of the standard appeals process described later in this Report.

2.) Structure Replacement Value Factors

The relative value of different property types was evaluated within the district to determine the Structure Replacement Value Factor according to the following formula:

Equation 2 – Structure Replacement Value Factors

Structure Replacement Value =

Normalized: $\left[\left(\text{Structure Weighting Factor} * \text{Average Improved Value} \right) + \right.$

$\left. \left(\left(\text{Land Weighting Factor} * \text{Average Land Value} \right) \right) * \text{Area Adjustment Factor} \right]$

Where:

- “Structure Weighting Factor” = 10 to “weight” relative importance of structure over land.
- “Average Improved Value” is average of value of all structures and improvements.
- “Normalized:[]” process is required to adjust the Structure Replacement Value factor as compared to a Single Family property type. The calculated structure replacement value for a specific property type is divided by the structure replacement value for a single family property type – and then it is multiplied by the area adjustment factor.
- Area Adjustment Factor adjusts for various average parcel size as compared to an average single family residence and only affects multi-family parcels for the service area. Hence, the adjustment factor is 0.644 for multi-family parcels and 1.0 (e.g. no effect) for all other property use types.
- “Land Weighting Factor” = 1
- “Average Land Value” is average of value of all land per property type

Table 6 on the next page is a tabulation of the structure replacement values for each property type as defined by Equation 2, on the previous page.

Table 6 – Structure Replacement Factors

Property Type	Average Improvement Values (a)	Average Land Values (b)	Adjusted, Weighted Normalized Replacement Value Factor	Unit
Single Family	\$280,970	\$301,247.52	1.0000	each
Multi-Family	\$181,015	\$185,912.00	0.4134	res unit
Commercial/Industrial	\$246,992	\$250,715.00	0.8745	acre
Office	\$228,946	\$60,187.00	0.7553	acre
Storage	\$131,656	\$385,005.00	0.5470	acre
Parking Lot	NA	NA	0.7350	acre
Vacant	\$77,418	\$107,367.17	0.7350	each
Agriculture	\$7,427	\$28,536.00	0.0330	acre
Range Land & Open Space	\$3,124	\$1,707.00	0.0106	acre

(a) and (b) values derived from an analysis of the 2019 Monterey County Assessor records.

Summary of Risk and Replacement Factors

Per Equation 1, the relative special benefit for each property type (the “SFE” or “Single Family Equivalent” Benefit Units) is determined as the product of the normalized Fire Risk Factors and the normalized Structure Replacement Value Factors. Table 7, below, summarizes the benefit for each property type.

Note that to derive an actual Assessment amount, each of these values needs to be then multiplied by the parcel specific Fire Hazard Zone Risk Factors and Proximity (Travel Time) Risk Factors in Tables 8 and 9, below.

Table 7 – Benefit Summary per Property Type

Property Type	Fire Risk Factors	Replacement Cost Factors	SFE Factors	Unit
Single Family	1.0000	1.0000	1.0000	each
Multi-Family	2.3220	0.2530	0.5875	res unit
Commercial/Industrial	5.2150	0.5550	2.8943	acre
Office	1.5524	1.3078	2.0302	acre
Storage	13.0438	0.4587	5.9837	acre
Parking Lot	0.3179	0.8433	0.2681	each
Vacant	0.3179	0.8433	0.2681	each
Agriculture	1.2310	0.0357	0.0440	acre
Range Land & Open Space	0.0935	0.0094	0.0009	acre

Residential Properties

All improved residential properties with a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Residential properties on parcels that are larger than one acre receive additional benefit and are assigned additional SFEs on an “Agricultural/Rangeland” 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 per Equation 1 to be 0.5875 SFEs per residential unit. 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 per Equation 1 to be 2.8943 SFEs per acre. The relative benefit for office properties was determined per Equation 1 to be 2.0302 SFEs per acre.

Vacant and Undeveloped Properties

The relative benefit for vacant properties and stand-alone parking lots was determined per Equation 1 to be 0.2681 SFEs per parcel.

Rangeland & Open Space Properties

The relative benefit for range land & open space properties was determined per Equation 1 to be 0.0009 SFEs per acre. (This group includes TPZ parcels.)

Agricultural Properties

The relative benefit for agricultural properties requires additional analysis, as required by Government Code 50078 *et seq* and the unique aspects of agricultural properties within the boundaries. This analysis considered how agricultural operations may 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. Agricultural properties have been analyzed for fire risk and replacement cost per Equation 1. The relative benefit for agricultural properties was determined per Equation 1 to be 0.0440 SFEs per acre.

Other Properties

Properties that do not fit within the major categories described above have been individually reviewed and the special benefit has been individually calculated. These properties are primarily mixed-use properties with the relative special benefit calculated from the relative proportion of each of the underlying property uses.

Article XIID, 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.

Miscellaneous, small and other parcels such as roads, and right-of-way parcels typically do not have significant risk of fire damage. Moreover, for common area parcels, the fire benefits are assigned to the other improved parcels in the project that share common ownership of the common area. These miscellaneous parcels receive minimal benefit from the Services and are assessed an SFE benefit factor of 0.

3.) Fire Hazard Zone Risk Factors

CAL FIRE works with local agencies to study various fire risk factors throughout rural California including terrain, vegetation, fuel load, wind, weather, etc. and designates specific geographic areas according to fire risk. Within the Assessment Area certain areas are designated as Very High, High, or Moderate as well as areas that do not fall into any of these zones (“None”). Accordingly, parcels receive higher special benefit from the fire protection and emergency response services if they are higher risk zones.

Refer to Appendix A for a diagram of the Fire Hazard Areas in North County FPD.

Table 8 shows the normalized Fire Hazard Risk Factor for each fire risk zone.