

# **Parks and Recreation**

## **Engineer's Report for Assessment of Benefits**

Prepared for:

**Scotia Community Services District**



**Engineers & Geologists**

812 W. Wabash Ave.  
Eureka, CA 95501-2138  
707-441-8855

March 2016

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PO Box 245

Scotia, CA 95565-0245



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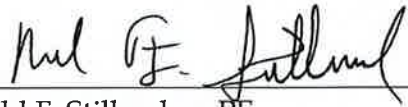
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# Scotia Community Services District Parks & Recreation

## Engineer's Report Certificate

This report describes the Parks & Recreation Assessment including improvements, budgets, parcels, and assessments to be levied over the next five fiscal years beginning with FY 2016/2017. Reference is hereby made to Humboldt County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed report as directed by the District Board.

Dated this 29<sup>th</sup> day of March 2016.

By:   
Ronald F. Stillmaker, PE  
Sr. Civil Engineer  
SHN Engineers & Geologists

By:   
Mike Foget, PE, LEED AP  
Civil Engineering Principal  
SHN Engineers & Geologists

I hereby certify that the enclosed Engineer's Report, together with Assessment Roll and Assessment Diagram thereto attached, was approved and confirmed by the Scotia Community Services District Board of Directors, Scotia California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

By \_\_\_\_\_  
Chairperson  
Scotia Community Services District  
Humboldt County, California

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## Acronyms & Abbreviations

CPI	consumer price index
EBU	equivalent benefit unit
FY	fiscal year
HRC	Humboldt Redwood Company
NPRA	National Parks and Recreation Association
O&M	operations and maintenance
SANDAG	San Diego Association of Governments Traffic Generators Study
SCSD	Scotia Community Services District
SHN	SHN Engineers & Geologists
TOS	Town of Scotia Company, LLC

# 1.0 Introduction

Located in the heart of California Redwood Country, Scotia was developed starting in the 1880s and has been maintained since then as a true company town. The entire town was developed and constructed by The Pacific Lumber Company. The residences were all constructed and maintained by the company for its employees. Industrial, commercial, and community structures were also developed by the company, creating a consistency in historical design. In 2008, Pacific Lumber Company was reorganized. Today, Scotia is owned and operated by the Town of Scotia Company, LLC (TOS); the sawmill is operated by Humboldt Redwood Company (HRC). TOS is in the process of subdividing the properties and selling them into private ownership. In 2014 the Scotia Community Services District (SCSD) was formed to provide the town with essential services associated with water, wastewater, streets and street lighting, storm drainage, parks and recreation, and Fire fighting. This report provides support and recommendations for establishment of benefit assessments to support the provision of those services by the SCSD.

This assessment was conducted by SHN Engineers & Geologists on behalf of the SCSD.

## 1.1 Proposition 218

On November 5, 1996, the electorate approved Proposition 218, Right to Vote on Taxes Act, which added Articles XIII C and XIII D to the California Constitution. The proposition affects all assessments upon real property for a special benefit conferred on the property. As written, Proposition 218 exempts assessments for street purposes from the voting requirement.

Proposition 218 establishes a strict definition of "special benefit." For the purposes of all assessment acts, special benefit means "a particular and distinct benefit over and above general benefits conferred on real property located in the district or the public at large. General enhancement of property value does not constitute 'special benefit.'" In a reversal of previous law, a local agency is prohibited by Proposition 218 from including the cost of any general benefit in the assessment apportioned to individual properties. Assessments are limited to those necessary to recover the cost of the special benefit provided the property.

In addition, assessments levied on individual parcels are limited to the "reasonable cost of the proportional special benefit conferred on that parcel."

Previously, assessments were seldom if ever levied on public property. Proposition 218 specifically requires assessments to be levied on public parcels within an assessment district, unless the agency that owns the parcel can "demonstrate by clear and convincing evidence" that its parcel will receive no special benefit.

A summary of other Assessment Acts is presented in Appendix A.

## 1.2 Purpose and Authorization

The boundaries of the Assessment District (District) are coterminous with the SCSD boundaries. The purpose of this District is to provide a stable revenue source, coupled with available grants and donations from other sources, to fund the ongoing operation, maintenance, expansion, enhancement, construction, renovation, and rehabilitation of the SCSD park and recreational

improvements, including parks, wilderness parklands, open space, trails, sports facilities, recreation and activity centers, and facilities (collectively referred to as “improvements”) that provide special benefits to properties within the SCSD, including incidental expenses and debt services for any bond(s), loans, or other repayment plans incurred to finance capital improvements.

### **Improvements Authorized by the 1972 Act**

The 1972 Act permits assessments proceeds to be spent on the following:

- The installation or planting of landscaping
- The installation or construction of statuary, fountains, and other ornamental structures and facilities
- The installation or construction of public lighting facilities
- The installation or construction of any facilities that are appurtenant to any of the foregoing or that are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities
- The installation of park or recreational improvements, including, but not limited to, all of the following:
  - Land preparation, such as, grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage
  - Lights, playground equipment, play courts, and public restrooms
- The maintenance or servicing, or both, of any of the foregoing
- The acquisition of land for park, recreational, or open-space purposes
- The acquisition of any existing improvement otherwise authorized pursuant to this section
- The acquisition or construction of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or other group events, activities, or functions, whether those events, activities, or functions are public or private
- Incidental expenses associated with the improvements including, but not limited to:
  - the cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
  - the costs of printing, advertising, and the publishing, posting and mailing of notices;
  - compensation payable to the County for collection of assessments;
  - compensation of any engineer or attorney employed to render services;
  - any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;
  - any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.
  - costs associated with any elections held for the approval of a new or increased assessment.

- Where the cost of improvements (other than O&M) is greater than can be conveniently raised from a single annual assessment, the 1972 Act permits an assessment to be levied and collected in annual installments. In that event, the governing body may choose to do any of the following:
  - Provide for the accumulation of the moneys in an improvement fund until there are sufficient moneys to pay all or part of the cost of the improvements.
  - Provide for a temporary advance to the improvement fund from any available and unencumbered funds of the local agency to pay all or part of the cost of the improvements and collect those advanced moneys from the annual installments collected through the assessments.
  - Borrow an amount necessary to finance the estimated cost of the proposed improvements. The amount borrowed, including amounts for bonds issued to finance the estimated cost of the proposed improvements.

### 1.3 District Improvements

The District assessments will fully or partially fund various improvements and activities that specially benefit properties within the District. It is the goal and intent for this District to provide a stable revenue source that will allow the SCSD to fund the ongoing maintenance of the various park and recreational facilities for the community and endeavors to improve the overall park and recreational system that directly affect the properties and quality of life for residents, tenants, employees and owners of properties within the SCSD. To the full extent permitted by the 1972 Act, the improvements, projects and expenditures to be funded by the assessments may include:

- Operation and Maintenance: operation and maintenance of park and recreational improvements throughout the District
- Acquisitions: The acquisition of land or facilities for park or recreational purposes
- Resource Development: The construction, installation, and/or expansion of various park sites, trails, open spaces, halls/activity centers (community centers) and related recreational facilities within the District
- Facility Enhancements/Rehabilitation: Periodic repairs and renovations of recreational sites and facilities (parks, trails, community centers) including, but not limited signage, playground, and tot-lot equipment; sports field fencing; portable soccer goals; ball fields; tennis courts; basketball courts; sports facility lighting; parking facilities; restrooms, kitchens and related equipment and amenities such electrical, irrigation and drainage systems, tables benches, etc.
- Capital Improvements: Major repairs of recreational buildings and facilities that may include repair or replacement roofs, interior building repairs, replacement of permanent fixtures, structural repairs, internal building remodels, as well as the construction and installation of new facilities

## 2.0 Improvement Costs

The projected five-year annual expenses for the Assessment District are presented in Table 1 (on the following page).



<b>Table 1</b> <b>Projected Expenses, Parks and Recreation Fund, SCSD</b>					
	<b>FY <sup>1</sup></b> <b>16-17</b>	<b>FY</b> <b>17-18</b>	<b>FY</b> <b>18-19</b>	<b>FY</b> <b>19-20</b>	<b>FY</b> <b>20-21</b>
<b>Personal Services</b>					
Attorney	\$1,000	\$1,020	\$1,040	\$1,061	\$1,082
Auditor (Annual Audit)	\$600	\$612	\$624	\$637	\$649
Board Stipend	\$300	\$300	\$300	\$300	\$300
Bookkeeping/CPA Consult	\$50	\$510	\$520	\$531	\$541
O&M <sup>2</sup> Staff (Salaries & Benefits)	\$61,900	\$63,138	\$64,401	\$65,689	\$67,003
<b>Total Personal Services</b>	<b>\$63,850</b>	<b>\$65,580</b>	<b>\$66,886</b>	<b>\$68,217</b>	<b>\$69,576</b>
<b>Materials and Services</b>					
Bond, Dues, Publications	\$100	\$103	\$106	\$109	\$113
Supplies, Lab, Permitting & Monitoring	\$4,500	\$4,635	\$4,774	\$4,917	\$5,065
Utilities- water, sewer communications	\$4,800	\$4,944	\$5,092	\$5,245	\$5,402
General Maintenance & Repair	\$5,000	\$5,150	\$5,305	\$5,464	\$5,628
Insurance	\$1,000	\$1,030	\$1,061	\$1,093	\$1,126
Electrical	\$1,000	\$1,030	\$1,061	\$1,093	\$1,126
Contracted Maintenance Services	\$1,000	\$1,030	\$1,061	\$1,093	\$1,126
<b>Total Materials and Services</b>	<b>\$17,400</b>	<b>\$17,922</b>	<b>\$18,460</b>	<b>\$19,013</b>	<b>\$19,584</b>
<b>Total O&amp;M</b>	<b>\$81,250</b>	<b>\$83,502</b>	<b>\$85,345</b>	<b>\$87,231</b>	<b>\$89,160</b>
<b>Other Expenditures</b>					
Annual Debt Service	\$925	\$925	\$26,625	\$26,625	\$44,105
Transfer to Equipment Replacement Fund	\$3,750	\$3,750	\$3,750	\$3,750	\$3,750
Transfer to Reserve Fund	\$66,183	\$67,012	\$0	\$52,468	\$0
<b>Total Other Expenditures</b>	<b>\$70,858</b>	<b>\$71,687</b>	<b>\$20,095</b>	<b>\$72,563</b>	<b>\$39,285</b>
<b>Capital Outlay</b>					
SCSD Office Building	\$13,500	\$0	\$0	\$0	\$0
Winema Theater Improvements	\$0	\$0	\$375,000	\$0	\$0
Ball Fields/Bathroom Improvements	\$0	\$0	\$0	\$0	\$250,000
Museum Improvements	\$0	\$0	\$0	\$0	\$80,000
Office Equipment/Furnishings Start-up	\$1,000	\$0	\$0	\$0	\$0
<b>Total Capital Expenditures</b>	<b>\$14,500</b>	<b>\$0</b>	<b>\$375,000</b>	<b>\$0</b>	<b>\$330,000</b>
<b>Total All Expenditures</b>	<b>\$166,608</b>	<b>\$155,189</b>	<b>\$480,440</b>	<b>\$159,794</b>	<b>\$458,445</b>
1. FY: fiscal year 2. O&M: operations and maintenance					

The capital expenditures projected over the five-year period include debt financed projects consisting of purchase of an office building for the District, improvements to the Winema Theater, ball fields/bathrooms, and museum. FY 16-17 also includes a purchase of office equipment/furnishings (\$1,000). Expenses associated with annual debt services for the projected capital projects are reflected in the benefit assessment.

## **3.0 Method of Assessment**

### **3.1 Background**

The Benefit Assessment Act of 1982 provides that assessments may be apportioned upon all assessable lots or parcels of land within an assessment district in proportion to the estimated benefits to be received by each lot or parcel from the improvements. In addition, Proposition 218 requires that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The proposition provides that only special benefits are assessable, and the District must separate the general benefits from the special benefits conferred on a parcel. A special benefit is a particular and distinct benefit over and above general benefits conferred on the public at large, including real property within the District. The general enhancement of property value does not constitute a special benefit.

### **3.2 Special Benefit**

According to the industry-standard guidelines established by the National Park and Recreation Association (NPRA), neighborhood parks in urban areas have a service area radius of generally one-half mile and community parks have a service area radius of approximately two miles. The service radii for neighborhood parks and neighborhood green spaces were specifically established to give all properties within these service radii close proximity and easy walking access to such public land areas. Because proximate and accessible parks serve as an extension of the usable land area for property in the service radii, and because the service radii was specifically designed to provide close proximity and access, the parcels within this service area clearly receive a direct advantage and special benefit from the improvements; this advantage is not received by other properties or the public at large.

An analysis of the service radii for the park facilities within the District finds that all properties in the Assessment District enjoy the distinct and direct advantage of being close and proximate to the parks within the Assessment District. The benefiting properties in the Assessment District, therefore, uniquely and specially benefit from the improvements.

In absence of the assessments, the parks facilities would not be provided and the parks and recreation areas in the Assessment District would be degraded due to insufficient funding for maintenance, upkeep, and repair. Therefore, the assessments provide improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits, but when combined with the unique proximity and access enjoyed by parcels in the Assessment District, they provide a direct advantage and special benefit to property in the Assessment District.

In summary, real property located within the boundaries of the Assessment District distinctly and directly benefits from closer proximity, access and views of improved parks, recreation facilities, open space, landscaped corridors, and other public resources funded by the Assessments. The improvements are specifically designed to serve local properties in the Assessment District, not other properties or the public at large.

### 3.3 General Benefit

The Parks and Recreation facilities are located within and/or immediately adjacent to properties within the District, and were installed and are maintained particularly and solely to serve, and for the benefit of, the properties within the District. Any benefit received by properties outside of the District is inadvertent and unintentional. Therefore, any general benefits associated with the street and street lighting facilities of the District are merely incidental, negligible, and non-quantifiable.

### 3.4 Apportionment

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

Moreover, a fixed or flat assessment for all properties of similar type was deemed inappropriate, because larger properties receive a higher degree of benefit than other similarly used properties that are significantly smaller. (For two properties used for commercial purposes, there is clearly 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 would benefit from proximity and improved access to well-maintained and improved parks and recreational facilities. So the potential population of employees or residents is a measure of the special benefits received by the property.) Larger parcels, therefore, receive an increased benefit from the assessments.

Finally, the special benefits derived from the assessments are conferred on property and are not based on a specific property owner's use of the improvements, or a specific property owner's occupancy of property or the property owner's demographic status (such as, age or number of dependents). However, ultimately people value the special benefits described above and use and enjoy the Park District's park and recreational facilities. In other words, the benefits derived by property are related to the average number of people who could potentially live on, work at, or otherwise could use a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at or otherwise use a property is one indicator of the relative level of benefit received by a property.

In conclusion, the Assessment Engineer determined that the appropriate method of assessment apportionment should be based on the type and use of property, the relative size of the property, its relative population and usage potential, and its proximity to parks and recreational facilities. This method is further described below.

To assess benefits equitably it is necessary to relate each property's proportional special benefits to the special benefits of the other properties within the District. The method of apportionment established for most districts formed under the 1982 Act uses a weighted method of apportionment known as an equivalent benefit unit (EBU) methodology that uses the single-family home site as the basic unit of assessment. A single-family home site equals one EBU and the other land uses are converted to a weighted EBU based on an assessment formula that equates the property's specific characteristics associated with density factors to compare the proportional benefit of each property as compared to a single-family home site.

EBU values for commercial and industrial land uses are based on the equivalence of special benefit on a land area basis between single-family residential property and commercial property. The EBU values for other types of business and industrial land uses are established by using average employee densities, because the special benefit factors described previously can be measured by the average number of people who work at commercial/industrial properties.

In order to determine employee density factors, the findings from the San Diego Association of Governments Traffic Generators Study (the "SANDAG Study") are used because these findings were approved by the State Legislature for use in justifying commercial and industrial school facilities fees and are considered to be a good representation of the average number of employees per acre of land area for commercial and industrial properties. As determined by the SANDAG Study, the average number of employees per acre for commercial property is 24.

In comparison, the average number of people residing in a single-family home in the area is 3.2. Because the average lot size for a single family home in Scotia is approximately 0.1148 acres, the average number of residents per acre of residential property is 27.88.

Commercial and industrial properties in excess of 5 acres generally involve uses that are more land intensive relative to building areas and number of employees (lower coverage ratios). As a result, the benefit factors for commercial and industrial property land area in excess of 5 acres is determined to be the EBU rate per quarter acre for the first 5 acres and the relevant EBU rate per each additional acre over 5 acres.

Institutional properties that are used for residential, commercial or industrial purposes are also assessed at the appropriate residential, commercial or industrial rate.

The estimated EBU density assessment factor for each type of land use is presented in Table 2.

<b>Table 2 Assessment Factors<sup>1</sup></b>		
	<b>Residence/Acre</b>	<b>EBU<sup>2</sup> Units</b>
Single Family Residence	27.88	1
<b>Type of Commercial/Industrial Land Use</b>	<b>Employee/Acre</b>	<b>EBU Units</b>
Commercial	24	0.86
Office	68	2.44
Shopping Center	24	0.86
Industrial (First Five Acres)	24	0.86
Industrial ( > Five Acres)	6 <sup>3</sup>	0.22
Self Storage or Parking Lot	1	0.04
1. Source: San Diego Association of Governments Traffic Generators Study 2. EBU: equivalent benefit units 3. Relevant EBU Rate		

Table 3 (on the next page) presents the number of EBUs assigned to each user based on a per acre density evaluation within the District boundaries.

Table 3 Parks and Recreation EBU <sup>1</sup> Estimate			
		Per Acre Density	
		Acres	EBUs
Parcel 1			
1	HRC <sup>2</sup> Mill Facilities	120	220
Parcel 2			
2	Electrical Co-generation Facilities	30.81	53
Parcel 3			
3	Scotia Inn-Restaurant/Lounge	2.03	15
4	Scotia Inn		
Parcel 4			
5	Residential	0.115	270
Commercial			
6	Scotia Childe Enrichment Center (pre-school)	0.138	1.0
7	Vacant Offices, For Lease	0.848	6
8	US Bank		
9	Pharmacy		
10	Aqua Dam Offices	1.040	8
11	Hair Heaven & Post Office		
12	TOS <sup>3</sup> Office (New Constr. & CSD Offices)	0.523	11
13	Medical Center Billing	0.521	11
14	Scotia True Value Hardware Store	0.716	5
15	Gas Station	0.542	4
16	Hoby's Market	1.150	9
17	TOS Offices	0.095	2
18	HRC Offices	2.245	48
Industrial			
19	Aqua Dams	5.66	6
20	Hall's Sheet Metal		
21	Eel River Brewery		
22	HRC Repair Garage	0.341	3
23	Vacant Storage Building (Northern Mill A)	3	1
Institutional			
24	St. Patrick's Church	0.148	1
25	Scotia Union Church	0.278	2
26	Fire Station	0.858	6
27	Winema Theater	0.427	3
28	SCSD <sup>4</sup> Shops/Corporate Yard	0.780	6
29	Scotia Museum	0.525	4
30	Scotia Park (Fields & Picnic)	15.040	23
School District Parcel			
31	Scotia Union School District (K-8)	5.680	43
Total			761
1. EBU: equivalent benefit units			

With a total projected cost of services of \$152,110 for fiscal year (FY) 2016-2017 and estimated 761 EBUs, the annual benefit associated with one EBU is \$199.879 annually (\$16.66 monthly).

## **4.0 Duration of Assessment**

It is proposed that the assessment be levied for fiscal year 2016-17 and continued every year thereafter, as long as the parks and recreational areas need to be improved and maintained and the SCSD requires funding from the assessments. The assessment can continue to be levied annually after the District Board of Directors approves an annually updated report, budget for the Assessment and other specifics of the assessment. In addition, the District Board of Directors must hold an annual public hearing to continue the assessment.

## **5.0 Annual Escalators**

The District's proposed, initial five-year assessments are established with an annual 1.5% escalation factor. The proposed assessments may also be increased based on an indexed escalation, if the District chooses to use it. The maximum assessments may increase based on the annual change in the Consumer Price Index (CPI) if that amount exceeds the assumed 1.5% increase built into the initial five year budget projections. The assessment adjustment shall be based on CPI activity measured during the preceding year, for all urban consumers, west urban area, all items, published by the United States Department of Labor, Bureau of Labor Statistics (or a reasonably equivalent index should the stated index be discontinued). Revenues collected which will exceed projected O&M, debt service and replacement expenses are to be placed in a capital reserve fund which will use accumulated funds for application toward principal costs of projected capital improvements related to the Parks and Recreation system upgrades and other planned capital expenditures.

Future increases shall also take into account the "pass through" costs of the purchase of uncontrolled, mandatory services (such as, utility costs). Increases or decreases in the purchase of uncontrolled mandatory services, outside of typical inflationary values, shall be passed through proportionally when considering all annual rate adjustments.

Indexing assessments annually to the CPI and adjusting for "pass through" costs, allows for minor increases for normal maintenance and operating cost escalation without incurring the costs of the Proposition 218 ballot proceedings. Any significant change in the assessments initiated by an increase in service provided or other significant changes to the District would still require the Proposition 218 proceedings and property owner approval.

## **6.0 Appeals and Interpretation**

Any property owner who claims that the assessment levied on its 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 District Administrator or her or his designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the District Administrator or his or her designee will promptly review the appeal and any information provided by the property owner. If the District Administrator or her or his 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 District Administrator 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 District Administrator, or her or his designee, shall be referred to the Board of Directors of the Park District and the decision of the Board of Directors shall be final.

## 7.0 Summary

Assessment diagrams showing the boundaries of the Parks and Recreation District, as well as the assessed parcels are presented in Appendix B.

The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Humboldt for the fiscal year to which this Report applies. The Assessor's maps and records are incorporated by reference herein and made part of this Report.

An estimate of the costs of the services provided by the District is included in the text of this report.

The assessment methodology used is as described in the text of this report. Based on this methodology, the EBU's and FY 2016/17 District assessment for each parcel were calculated and are shown in the Assessment Roll (Appendix C). Parcels which show a special benefit assessment of \$0 did not meet applied criteria related to the methodology to warrant any assessment of benefit.

Each lot or parcel of land within the District has been identified by unique County Assessor's Parcel Number on the Assessment Roll and the Boundary Map and Assessment Diagram referenced herein. The net assessment for each parcel for Fiscal Year 2016/17 can be found on the Assessment Roll.



# **A**

## **Assessment Acts**



## The Assessment Acts

### Improvement Act of 1911

*(Streets and Highways Code section 5000 et seq.)*

The 1911 Act may be used by cities, counties, and "all corporations organized and existing for municipal purposes." Assessments under this Act may be used to fund a long list of improvements including:

- transportation systems (including acquisition, construction, maintenance, and operation costs related thereto);
- street paving and grading;
- sidewalks;
- parks;
- parkways;
- recreation areas (including necessary structures);
- sanitary sewers;
- drainage systems;
- street lighting;
- fire protection systems;
- flood protection;
- geologic hazard abatement or prevention;
- water supply systems;
- gas supply systems;
- retaining walls;
- ornamental vegetation;
- navigational facilities;
- land stabilization; and
- other "necessary improvements" to the local agency's streets, property, and easements.

The 1911 Act may also be used to create a maintenance district to fund the maintenance and operation of sewer facilities and lighting systems.

Pursuant to this act, improvements must be completed before their total cost is assessed against the properties within the district. Contractors are, in effect, reimbursed for their work from the proceeds of the district. This aspect of the 1911 Act requires that sufficient funds be available for the project before it is begun and is a major drawback of the legislation. Total costs may include acquisition, construction, and incidentals (including engineering fees, attorney's fees, assessment and collection expenses, and cost of relocating utilities). The uncertainty that results from Proposition 218's voting requirements will probably discourage the future use of the 1911 Act. Individual assessments constitute liens against specific parcels and are due within 30 days of confirmation. If assessments are not paid in full within this period, a bond in the amount due is issued to the installer of the improvements and assessments are collected from individual

properties to pay off the bond. The property owner receives a separate bill indicating the assessment due. Bonds may also be issued under the improvement Bond Act of 1915 even though the assessment repaying the bonds has been levied under the 1911 Act. Alternatively, for assessments of less than \$150, the assessment may be collected on the tax roll upon which general taxes are collected.

Since the parcel being assessed is the only security for any bonds issued, accurately estimating the value of the property is very important. The feasibility of the project will hinge on the value of the property involved.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile these differences in the statute.

### **Municipal Improvement Act of 1913**

*(Streets and Highways Code section 10000 et seq.)*

The 1913 Act may be used by cities, counties, joint powers authorities, and certain special districts which are empowered to make any of the improvements authorized under the Act. It specifically authorizes the construction and maintenance of all the facilities authorized under the 1911 Act as well as the following:

- works and appliances for providing water service, electrical power, gas service, and lighting; and
- public transit facilities serving an area smaller than 3 square miles (including stations, structures, rolling stock, and land acquisition related thereto).

In addition, a municipality may enter into an agreement with a landowner to take over the operation and other activities of a sewer or water system owned by that landowner, and create a 1913 Act assessment district for the purpose of reimbursing the landowner. Such an assessment district may also include other land that can be served by the system, upon the written consent of the other affected landowners.

Unlike the 1911 Act, the total cost of improvements is assessed against the benefited properties before the improvements are completed. An assessment constitutes a lien against a specific parcel and is due within 30 days of recording the notice of assessment. If the landowner chooses not to pay the assessment in full at that time, bonds in the amount of the unpaid assessment may be issued under the 1911 Improvement Act or the 1915 Improvement Bond Act. Landowners will then be assessed payments over time.

A number of amendments to the Act enacted in 1992 have expanded its use to include certain building repairs and upgrades that are necessary to the public safety. For example, assessments may now finance work or loans to bring public and private real property or buildings into compliance with seismic safety and fire code requirements (Chapters 1197 and 832, Statutes of 1992.) Work is limited to that certified as necessary by local building officials. Revenues must be dedicated to upgrades; they cannot be used to construct new buildings nor dismantle an existing building. In addition, no property or building may be included within the boundaries of a 1913 Act district established for these purposes without the consent of the property owner. Furthermore,

when work is financed on residential rental units, the owner must offer a guarantee that the number of units in the building will not be reduced and rents will not be increased beyond an affordable level.

The 1913 Act can also be used to finance repairs to those particular private and public real properties or structures damaged by earthquake when located within a disaster area (as declared by the Governor) or an area where the Governor has proclaimed a state of emergency because of earthquake damage (Chapter 1197, Statutes of 1992). The kinds of work which may be financed include reconstruction, repair, shoring up, and replacement. A jurisdiction has seven years from the time a disaster area is declared or a state of emergency is proclaimed to establish a district under this statute.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative must be followed. Legislation is needed to reconcile the Act with Proposition 218.

### **Improvement Bond Act of 1915**

*(Streets and Highways Code section 8500 et seq.)*

This legislation does not authorize assessments. Instead, it provides a vehicle for issuing assessment bonds (including variable interest bonds) for assessments levied under the 1911 and 1913 Acts as well as a number of other benefit assessment statutes. Under this legislation, the local legislative body may also issue "bond anticipation notes" prior to actual bond sale - in effect borrowing money against the assessment bonds being proposed for sale. The 1915 Act is available to cities, counties, public districts, and public agencies.

After assessments have been levied and property owners given the opportunity to pay them off in cash, the local government will issue bonds for the total amount of unpaid assessments. Assessments collected to pay off 1915 Act bonds appear on the regular tax bill and are collected in the same manner as property taxes.

### **Park and Playground Act of 1909**

*(Government Code section 38000 et seq.)*

The Park and Playground Act is a method for cities to finance public park, urban open-space land playground, and library facilities. Pursuant to a 1974 revision, the act incorporates the procedures and powers of the improvement Act of 1911, the Municipal Improvement Act of 1913, and the improvement Act of 1915 to finance improvements. In addition to the power to levy assessments and issue bonds, the act provides that the city council may condemn land for improvements.

### **Tree Planting Act of 1931**

*(Streets and Highways Code section 22000 et seq.)*

Pursuant to this act, cities may levy assessments to fund the planting, maintenance or removal of trees and shrubs along city streets and to pay employees to accomplish this work. Assessments for maintenance are limited to a period of 5 years.

These assessments are apportioned on the basis of street frontage. Work is to be administered by the city parks department or other agency as appointed by the city council.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218. A city contemplating the use of the Act should document that street frontage is a valid measure of "special benefit." If frontage is not a directly indicator of benefit, use of this Act may be difficult to defend.

### **Landscaping and Lighting Act of 1972**

*(Streets and Highways Code section 22500 et seq.)*

This Act may be used by cities, counties, and special districts (including school districts). Alleged abuse of the Landscaping and Lighting Act by cities and school districts was one of the motivating forces behind Proposition 218. The initiative targeted the allegedly tenuous link between parks and recreation facilities and the benefit they provided to properties in the area. Prior to Proposition 218, the successful argument in favor of the Landscaping and Lighting Act was that parks, open space, and recreation facilities benefited properties by increasing their value. Because of the strict definition of special benefit created by Proposition 218 ("General enhancement of property value does not constitute 'special benefit.'"), that justification no longer exists and this Act will be much harder to use.

The 1972 Act enables assessments to be imposed in order to finance:

- acquisition of land for parks, recreation, and open space;
- installation or construction of planting and landscaping, street lighting facilities, ornamental structures, and park and recreational improvements (including playground equipment, restrooms and lighting); and
- maintenance and servicing of any of the above.

Amendments to the Act, effective January 1, 1993, exclude from the authorized improvements any community center, municipal auditorium or hall, or similar public facility, unless approved by the property owners owning 50 percent of the area of assessable lands within the proposed district. The election shall be conducted following the adoption of an ordinance or resolution at a regular meeting of the legislative body of the local agency and is in lieu of any public notice or hearing otherwise required by this part.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Benefit Assessment Act of 1982**

*(Government Code section 54703 et seq.)*

This statute provides a uniform procedure for the enactment of benefit assessments to finance the maintenance and operation costs of drainage, flood control, and street light services and the cost of installation and improvement of drainage or flood control facilities. Under legislation approved in 1989 (SB 975, Chapter 1449), this authority is expanded to include the maintenance of streets, roads, and highways. As with most other assessment acts, it may be used by cities, counties, and special districts which are otherwise authorized to provide such services. It does, however, have some differences that set it apart.

Assessments can be levied on a parcel, a class of property improvement, use of property, or any combination thereof. Assessments for flood control services can be levied on the basis of proportionate stormwater runoff from each parcel rather than a strict evaluation of the flood protection being provided. The amount of assessment must be evaluated and re-imposed annually. Assessments are collected in the same manner as property taxes.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Also, the Act states that an assessment may be levied wherever service is available, regardless of whether the service is actually used - this may conflict with the initiative's definition of "special benefit." Where differences exist between statute and initiative, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Integrated Financing District Act**

*(Government Code section 53175 et seq.)*

This legislation creates an alternate method for collecting assessments levied under the 1911, 1913, and 1915 Acts, the Landscaping and Lighting Act of 1972, the Vehicle Parking District Law of 1943, the Parking District Law of 1951, the Park and Playground Act of 1909, the Mello-Roos Community Facilities Act of 1982, the Benefit Assessment Act of 1982, and charter cities' facility benefit assessments. The Integrated Financing District Act applies to all local agencies insofar as those agencies have the authority to use any of the above listed financing acts. Assessments levied under this act can be used to pay the cost of planning, designing, and constructing capital facilities authorized by the applicable financing act, pay for all or part of the principle and interest on debt incurred pursuant to the applicable financing act, and to reimburse a private investor in the project.

The Integrated Financing District Act has two unique properties:

- (1) it can levy an assessment which is contingent upon *future* land development and payable upon approval of a subdivision map or zone change or the receipt of building permits;
- (2) it allows the local agency to enter into an agreement with a private investor whereby the investor will be reimbursed for funds advanced to the agency for the project being financed.

Because the assessment is not triggered until development is ready to begin, these features make the act an attractive option when development is to occur in phases. Payment of assessments will be deferred until such time as public improvements are needed.

The procedure for creating an integrated financing district, including entering into a reimbursement agreement, is in addition to the procedure required by the applicable assessment act. The resolution of intention must include a description of the rates and method of apportionment, the contingencies which will trigger assessment of the levy, the fixed dollar amount per unit of development for the contingent levy, and a description of any proposed reimbursement agreement. The assessment and entry into any agreement are effective upon approval of the legislative body.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Street Lighting Act of 1919**

*(Streets and Highways Code section 18000 et seq.)*

This act allows cities to levy benefit assessments for the maintenance and operation of street lighting systems. Assessments may also finance the installation of such a system by a public utility. Assessments are liens against land and are due within 30 days of being recorded by the tax collector. The 1919 Act also establishes two alternate methods for collecting payments on an installment basis in the manner of property taxes. An assessment levied under this act must be evaluated and reapplied annually after a public hearing, and , pursuant to Proposition 218, a vote of the property owners.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Municipal Lighting Maintenance District Act of 1927**

*(Streets and Highways Code section 18600 et seq.)*

This statute provides for the maintenance and operation (but not the installation) of street lighting systems within cities. Assessments are limited to a maximum of 5 years.

As of this writing, the public notice and assessment procedure under the Act conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Street Lighting Act of 1931**

*(Streets and Highways Code section 18300 et seq.)*

The 1931 Act is another means for cities to finance the maintenance and service (but not installation) of street lighting systems. Assessments under this act are levied annually and collected in installments in the manner of city taxes. The term of assessment is limited to 5 years.

As of this writing, the public notice and assessment procedure under the Act (which resembles the procedure under the 1919 Street Lighting Act) conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Parking District Law of 1943**

*(Streets and Highways Code section 31500 et seq.)*

This act authorizes a city or county to levy assessments to finance:

- the acquisition of land for parking facilities;
- the construction, operation, and maintenance of parking facilities (including garages); and
- the costs of engineers, attorneys, or other people necessary to acquisition, construction, operations, and maintenance.

The Parking District Law incorporates the assessment procedures and powers of the 1911, 1913, and 1915 Acts discussed previously. It also authorizes the use of meters, user fees, and ad valorem taxes to raise funds.



Once parking facilities have been acquired, administration of the parking district is turned over to a "Board of Parking Place Commissioners" appointed by the city mayor or county board of supervisors. This board reports to the legislative body on the status of the district each year. Annual assessments are levied by the legislative body, in accordance with Proposition 218.

As mentioned earlier, the public notice and assessment procedures of the 1911, 1913, and 1915 Acts currently conflict with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Parking District Law of 1951**

*(Streets and Highways Code section 35100 et seq.)*

Cities are authorized to finance the following activities under this act:

- acquisition of land for parking facilities (including the power of eminent domain),
- improvement and construction of parking lots and facilities,
- issuance of bonds, and
- employee salaries.

Special assessments under the 1911 Act may be levied to replace the use of fees and charges to repay outstanding bonds. Other revenue sources may include user fees, parking meter charges, and ad valorem taxes.

District formation proceedings are initiated upon petition of involved land owners and generally follow the pattern of other assessment acts. As in the 1943 Act, the district is to be administered by an appointed parking commission.

As with those other acts, the public notice and assessment procedure of the 1951 Act currently conflicts with the provisions of Proposition 218. Where differences exist, the requirements of the initiative prevail. Legislation is needed to reconcile the Act with Proposition 218.

### **Parking and Business Improvement Area Law of 1989**

*(Streets and Highways Code section 36500 et seq.)*

This act recodifies and supplants the 1979 law of the same name, now repealed. The Parking and Business Improvement Area Law of 1989 enables a city, county, or joint powers authority made up of any combination of cities and counties to establish areas of benefit and to levy assessments on businesses within those areas to finance the following improvements:

- parking facilities,
- parks,
- fountains, benches, and trash receptacles,
- street lighting, and
- decorations.

Assessment revenues may also be used for any of the following activities:

- promotion of public events benefiting area,
- businesses which take place in public places within the area,
- furnishing music to any public place in the area,
- promotion of tourism within the area, and
- any other activities which benefit businesses located in the area.

Assessments must be directly proportional to the estimated benefit being received by the businesses upon which they are levied. Furthermore, in an area formed to promote tourism, only businesses that benefit from tourist visits may be assessed. The agency creating the assessment district area is authorized to finance only those improvements or activities which were specified at the time the area is formed. An unusual feature of this law is that assessments may be apportioned differently among zones of benefit, in relation to the benefit being received by businesses within each zone. The agency should carefully document the special benefit which each assessed property will receive. Pursuant to Proposition 218, the assessment cannot finance improvements or services of general benefit.

Establishment proceedings may be initiated by either the legislative body of the city or county. The procedure is generally similar to other assessment acts and requires adoption of a resolution of intention and a noticed public hearing at which protests may be considered. If written protests are received from the owners of businesses which would pay 50 percent or more of the proposed assessment, the formation proceedings must be set aside for a period of one year. If these protests are only against a particular improvement or activity, the legislative body must delete that improvement or activity from the proposal. After a district has been established under this law, the legislative body must appoint an advisory board to make recommendations on the expenditure of revenues from the assessment. The advisory board may also be appointed prior to the adoption of a resolution of intention to make recommendations regarding that notice.

There's some ambiguity over whether Proposition 218 applies to the 1989 Law. Arguably, it does not apply since assessments are levied on businesses and are therefore not "a charge upon real property." Agencies should approach this assessment act with caution and a strong opinion from counsel before choosing not to comply with Proposition 218.

#### **Property and Business Improvement District Law of 1994** (*Streets and Highways Code section 36600 et seq.*)

A city, county, or joint powers authority made up of cities and counties may adopt a resolution of intention to establish this type of district upon receiving a written petition signed by the property owners of the proposed district who would pay more than 50 percent of the assessments being proposed. The city, county, or JPA must appoint an advisory board within 15 days of receiving a petition which shall make recommendations to the legislative body regarding the proposed assessments (Streets and Highways Code section 36631).

The improvements which may be financed by these assessments include those enumerated under the Parking and Business and Improvement Area Law of 1989, as well as such other items as:

- closing, opening, widening, or narrowing existing streets;
- rehabilitation or removal of existing structures; and
- facilities or equipment, or both, to enhance security within the area.

Assessment revenues may finance the activities listed under the 1989 Law, as well as the following:

- marketing and economic development; and
- security, sanitation, graffiti removal, street cleaning, and other municipal services supplemental to those normally provided by the municipality.



No provision is made within this law for financing bonded indebtedness.

The property owners' petition is required to include a management district plan consisting of a parcel-specific map of the proposed district, the name of the proposed district, a description of the proposed boundaries, the improvements or activities being proposed over the life of the district and their cost, the total annual amount proposed to be expended in each year of the district's operation, the proposed method and basis of levying the assessment, the time and manner of collecting assessments, the number of years in which assessments will be levied (this is limited to five years maximum), a list of the properties being benefited, and other related matters (Streets and Highways Code 36622).

The legislative body's resolution must include the management district plan as well as the time and place for a public hearing on the establishment of the district and levy of assessments will be held (Streets and Highways Code 36621). This hearing must be held within 60 days after the adoption of the resolution. Hearing notice must be provided pursuant to Government Code section 54954.6. Both mailed and newspaper notices are required (Streets and Highways Code section 36623). The proposal to form the district must be abandoned if written protests are received from the owners of real property within the proposed district who would pay 50 percent or more of the assessments (Streets and Highways Code section 36625). In addition, when a majority protest has been tendered, the legislative body is prohibited from reinitiating the assessment proposal for a period of one year.

The public notice and assessment procedures of the 1994 Law are similar to the provisions of Proposition 218. An agency proposing to use the Act should take care to ensure that they are proceeding in harmony with Proposition 218 and that the properties being assessed are receiving an actual special benefit. Where conflicts exist, the requirements of the initiative prevail. No assessments under this law can be levied on residential properties or on land zoned for agricultural use (Streets and Highways Code section 36635).

This statute is an alternative to the Parking and Business and Improvement Area Law of 1989 and does not affect any districts formed under that law.

### **Pedestrian Mall Law of 1960**

*(Streets and Highways Code section 11000 et seq.)*

This authorizes cities and counties to establish pedestrian malls, acquire land for such malls (including power of eminent domain), restrict auto traffic within the malls, and to levy benefit assessments to fund mall improvements. Improvements may include:

- street paving,
- water lines,
- sewer and drainage works,
- street lighting,
- fire protection,
- flood control facilities,
- parking areas,
- statues, fountains and decorations,
- landscaping and tree planting,
- child care facilities,
- improvements necessary to a covered air-conditioned mall, and
- relocation of city-owned facilities.

Assessments may also be used to pay damages awarded to a property owner as a result of the mall. Establishment proceedings are similar to those found in other assessment acts. Accordingly, these provisions do not currently conform to the requirements of Proposition 218 and await reconciliation. Where conflicts exist, the requirements of the initiative prevail. Assessments and bonds are to be levied in accordance with the provisions of the Vehicle Parking District Law of 1943 (which provides for use of the 1911 and 1915 Acts, among others).

### **Permanent Road Divisions Law**

*(Streets and Highway Code sections 1160 et seq.)*

This statute enables counties to establish areas of benefit (called "divisions" under this law) within which assessments may be levied in order to finance construction, improvement, or maintenance of any county road, public road easement, or private road or easement which contains a public easement (Streets and Highways Code section 1179.5). The statute also empowers a board of supervisors to levy special taxes for these purposes upon approval by 2/3 of the electorate within the division.

Proceedings for the formation of a road division may be initiated by either: (1) a resolution of the Board of Supervisors; or, (2) submittal to the Board of Supervisors of a petition containing either the signatures of a majority of the land owners within the proposed division or the owners of more than 50 percent of the assessed valuation. The public notice and assessment procedures of the Permanent Road Divisions Law conflict with the provisions of Proposition 218 by failing to provide for a property owners' ballot. The requirements of Proposition 218 must be followed in order to establish a division. Legislation is needed to reconcile the Act with Proposition 218.

### **Community Rehabilitation District Law of 1985**

*(Government Code section 53370 et seq.)*

This act provides a means for cities and counties to finance the rehabilitation, renovation, repair or restoration of existing public infrastructure. It cannot, however, be used to pay for maintenance or services. A Community Rehabilitation District cannot be formed within a redevelopment project area.

A district established under the 1985 Act can rehabilitate public capital facilities such as:

- streets,
- sewer and water pipes,
- storm drains,
- sewer and water treatment plants,
- bridges and overpasses,
- street lights,
- public buildings,
- criminal justice facilities,
- libraries, and
- park facilities.

It can also finance the expansion of facility capacity or the conversion to alternative technology. The 1985 Act allows a rehabilitation district to use any of the following financing tools:

- Special assessments under the improvement Act of 1911 and the Municipal Improvement Act of 1913 and bonds under the improvement Bond Act of 1915.

- Special taxes and bonds pursuant to the Mello-Roos Community Facilities Act of 1982.
- Fees or charges, provided that these do not exceed the amount reasonably necessary to cover the cost of the involved project.
- Senior obligation bonds under the 1985 Act's own provisions (Gov. Code section 53387 et seq.).

Certain of the public notice and assessment procedures of this act conflict with Proposition 218. An agency proposing to use the Community Rehabilitation District Law should take care to ensure that they are proceeding in harmony with Proposition 218 and that the properties being assessed are receiving a concrete special benefit. Under Proposition 218, a general enhancement of property value is not a special benefit.

Public notice must be provided over a period of 5 weeks prior to the district formation hearing. This notice must contain the text of the resolution of intent, the time and place of the hearing, and a statement that the hearing will be open to all interested persons in favor of or opposed to any aspect of the district. If the district will utilize any of the above special assessment or community facilities acts, it may combine the notices required by those acts with this notice.

A separate procedure exists for issuing, administering, and refunding senior obligation bonds pursuant to the 1985 Act (Gov. Code sections 53387 - 53594). Issuance involves adopting a resolution of intention and submitting the bond issue to the voters of the district. Affirmation by a simple majority of voters is necessary to approve issuance of the bonds.

### **Geologic Hazard Abatement District of 1979**

*(Public Resources Code section 26500 et seq.)*

This statute authorizes a city or county to create an independent Geologic Hazard Abatement District (GHAD) empowered to finance the prevention, mitigation, abatement, or control of actual or potential geologic hazards through the levy and collection of special assessments. The statute broadly defines geologic hazards to include: landslides, land subsidence, soil erosion, earthquakes, or "any other natural or unnatural movement of land or earth."

A district can:

- acquire property by purchase, lease, gift, or eminent domain;
- construct improvements;
- maintain, repair, or operate any improvements; and
- use any of the assessment and bond procedures established in the improvement Act of 1911, the Municipal Improvement Act of 1913, and the improvement Bond Act of 1915.

Proceedings for forming a GHAD may be initiated by resolution of the city or county or by petition of the owners of at least 10% of affected property. A landowner petition must include signatures, legal descriptions, and a map of the proposed district boundaries. In addition, the city, county, or petitioners must include a "plan of control" prepared by an engineering geologist which describes the geologic hazard to be addressed, its location, the affected area, and a plan for the prevention, mitigation, abatement, or control of the hazard.

When forming a GHAD, the legislative body of the city or county can be the governing body of the district. Alternatively, the legislative body can appoint five land owners to act as the district's board of directors. Thereafter, board members will be elected every four years from within the district. Unlike most special assessment districts, the GHAD is an entity independent of the city or county. The current procedure for forming a GHAD conflicts with Proposition 218 in that it does not provide for a property owners' ballot on the question of formation. When forming a GHAD, the city or county must conform its procedure to the engineer's report, public notice, balloting, and other requirements of Proposition 218.

The statute also provides for emergency formation of a GHAD upon the request of two-thirds of the affected property owners (Public Resources Code sections 26568-26597.7). This is invalid to the extent it conflicts with Proposition 218.

The statute does not describe the method for dissolving a GHAD. However, the California Court of Appeal has opined that dissolution of a GHAD is subject to the procedures of the Cortese-Knox Local Government Reorganization Act (Gov. Code 56000, et seq.) and cannot be unilaterally undertaken by a city (*Las Tunas GHAD v. Superior Court (City of Malibu)* (1995) 38 Cal.App.4th 1002). Under this interpretation, although district formation is undertaken by a city or county without the involvement of the county Local Agency Formation Commission (LAFCO), dissolving a district requires adherence to LAFCO procedures.

A GHAD has several advantages to recommend it. One, its boundaries need not be contiguous, so it can focus on just those properties subject to hazard. Second, it is an independent district with its own board of directors drawn from the affected property owners. Third, it is not limited to a single city or county; its boundaries can cross jurisdictional lines. Fourth, its formation proceedings are not subject to review by the Local Agency Formation Commission, thereby simplifying the process. Fifth, its formation is exempt from the California Environmental Quality Act.

Contra Costa County has formed GHADs in its Blackhawk and Canyon Lakes developments. In both, the County Board of Supervisors serves as the governing body.

### **Open Space Maintenance Act of 1974**

(Government Code sections 50575 et seq.)

Cities and counties are empowered to spend public funds to acquire open space land for preservation (Government Code sections 6950-6954). The Open Space Maintenance Act provides a means to levy an ad valorem special assessment to pay for the following services related to such land:

- conservation planning;
- maintenance;
- improvements related to open space conservation; and
- reduction of fire, erosion, and flooding hazards through clearing brush, making fire protection improvements not otherwise provided the area, planting and maintaining trees and other vegetation, creating regulations limiting area use, and construction of general improvements.

The owners of lands representing 25% or more of the value of the assessable land within the proposed district may initiate district formation by filing a petition with the involved city or county. The local legislative body must then prepare a preliminary report containing a description of the proposed boundaries, the work to be done, an estimate of the cost of the assessment, and illustrating the parcels to be benefitted. The planning commission must review the report and make recommendation to the legislative body. Once the legislative body has reviewed the report, concluded that such a district is justified, and adopted an ordinance of intention to form an assessment district, it will set a time and place for hearing objections to the proposal. The ordinance of intention must specify the district boundaries, the proposed projects, the annual assessment, the maximum assessment, and the time of the protest hearing (Government Code section 50593). Notice must be placed in a newspaper of general circulation, mailed to involved property owners, and posted in a public place. The formation proceedings in current law conflict with the requirements of Proposition 218. A city or county must be careful to substitute the requirements of Proposition 218 for any conflicting provisions in the code. This statute needs to be amended to reconcile it with Proposition 218.

### **Fire Suppression Assessment of 1978**

*(Government Code section 50078 et seq.)*

Special districts, county service areas, counties, and cities which provide fire suppression services (including those provided by contracting with other agencies) are authorized to levy assessments under this act. The resulting revenues may be used to obtain, furnish, operate, and maintain firefighting equipment and to pay salaries and benefits to firefighting personnel.

Unlike the other special assessment acts, invocation of fire suppression assessments does not require establishment of an assessment district. Instead, the jurisdiction levying the assessment specifies those parcels or zones within its boundaries that will be subject to assessment. Assessments are based upon uniform schedules or rates determined by the risk classification of structures and property use. Agricultural, timber, and livestock land is assessed at a lower rate on the basis of relative risk to the land and its products. The local agency may establish zones of benefit, restricting the applicability of assessments. In addition, assessments may be levied on parcels, classes of improvement or property use or any combination thereof. Assessments are proportional to the fire protection benefits received by property and improvements, but may be levied whether or not the service is actually used.

The procedure for establishing a fire suppression assessment includes:

- filing of a report which details the land to be assessed, the initial amount of assessment, the maximum assessment, the duration of the assessment, and the schedule or rate of assessment;
- public notice and hearing;
- protest procedures; and
- adoption of an ordinance or resolution imposing the levy.

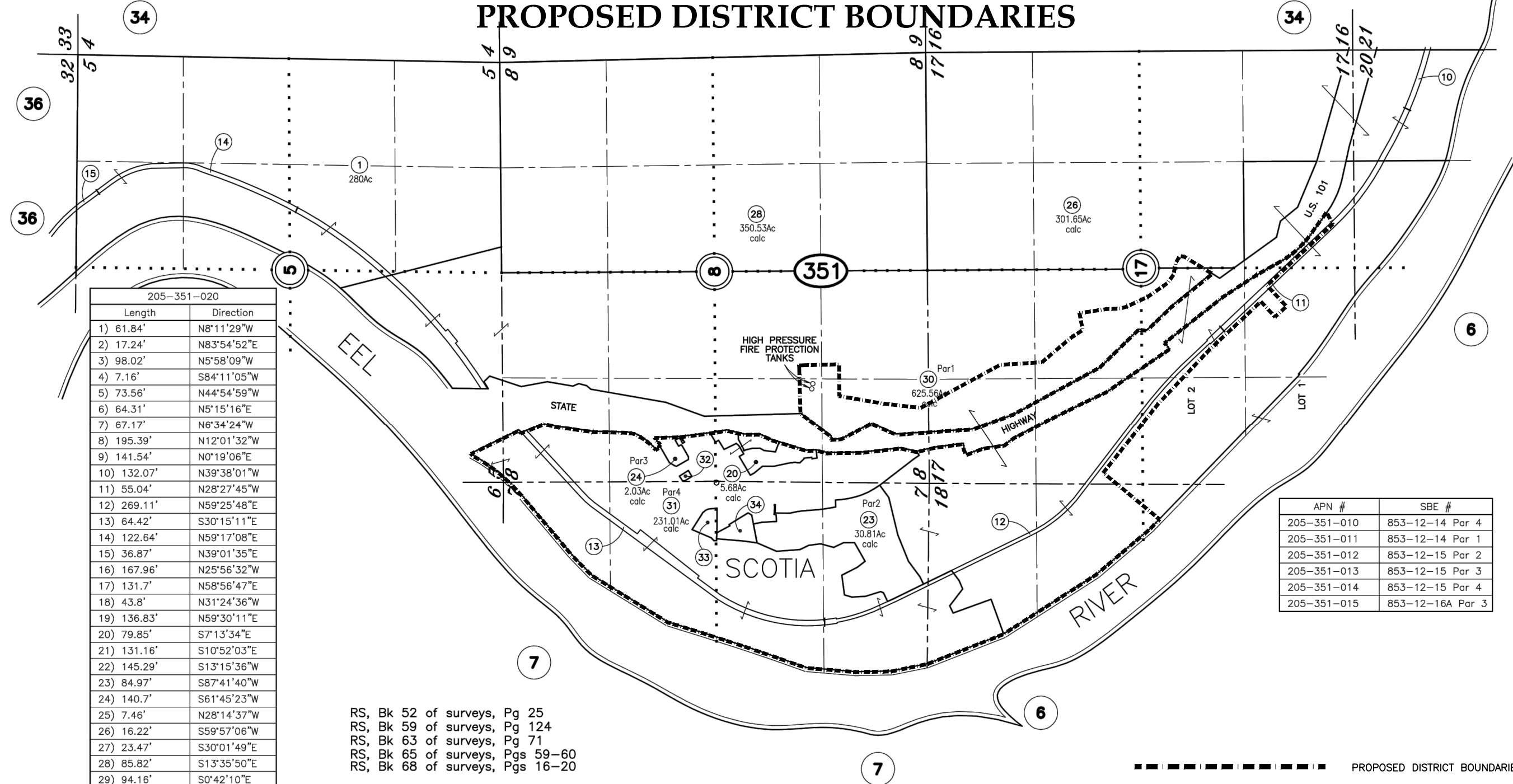
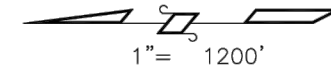
Proposition 218, with its strict definition of "special benefit," may pose a problem for new or increased assessments under this code. In fact, some jurisdictions, such as the Tamalpais Valley Fire District and the County of Los Angeles, have placed fire protection levies before the voters as special taxes (subject to two-thirds approval), effectively converting them from assessments.

The agency proposing to levy fire suppression assessments must be careful to document the special benefit (excluding any benefit to the general public and any general enhancement of property value) accruing to each parcel that is included in the assessment district. In addition, the formation proceedings in current law conflict with the requirements of Proposition 218. A city or county must substitute the requirements of Proposition 218 for all conflicting provisions in the code.

# B

## District Boundaries

# SCOTIA CSD PROPOSED DISTRICT BOUNDARIES



RS, Bk 52 of surveys, Pg 25  
RS, Bk 59 of surveys, Pg 124  
RS, Bk 63 of surveys, Pg 71  
RS, Bk 65 of surveys, Pgs 59–60  
RS, Bk 68 of surveys, Pgs 16–20

Assessor's Map Bk. 205, Pg.35  
County of Humboldt, CA.

SCOTIA CSD  
PROPOSED DISTRICT BOUNDARIES

005161.400

Figure 1



# C

## Assessment Roll

**Scotia Community Services District  
Parks and Recreation Assessment  
Fiscal Year 2016/17**

**Assessment Roll**

Parcel identification for each lot or parcel within the District, shall be the parcel as shown on the Humboldt County Secured Roll for the year in which the report is prepared and reflective of the Assessor's parcel maps. A complete listing of the parcels within this District, along with each parcel's assessment amount to be levied for Fiscal Year 2016/2017 is provided below.

These assessments will be submitted to the County Auditor/Controller to be included on the property tax roll for Fiscal Year 2016/2017. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be recalculated based on the method of apportionment and assessment rates as approved herein by the SCSD Board of Directors.

<b>Assessor's Parcel Number</b>	<b>EBUs<sup>1</sup></b>	<b>Special Benefit Assessment</b>
205-531-011-000 <sup>2</sup>	0	\$0
205-531-012-000 <sup>2</sup>	0	\$0
205-531-013-000 <sup>2</sup>	0	\$0
205-531-020-000	43	\$8,595
205-531-023-000	53	\$10,594
205-531-024-000	15	\$2,998
205-531-026-000 <sup>2</sup>	0	\$0
205-531-030-000	220	\$43,974
205-531-031-000	377	\$75,355
205-531-032-000	2	\$400
205-531-033-000	48	\$9,594
205-531-034-000	3	\$600
<b>Total</b>	<b>761</b>	<b>\$152,110</b>
1. EBU: equivalent benefit units 2. Parcels did not meet applied criteria related to the methodology to warrant any assessment of special benefit.		