



WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

MAINTENANCE AND RECREATION ASSESSMENT DISTRICT

ENGINEER'S REPORT

FISCAL YEAR 2015-16

PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND
ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION

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WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

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INTRODUCTION

OVERVIEW

In 1994, the West Contra Costa Unified School District, (the "District"), originally proposed the formation of an assessment district ("the West Contra Costa Unified School District Maintenance and Recreation Assessment District" or the "Assessment District") to finance the maintenance and improvement of school grounds, playing fields, and public recreational facilities of the District (the "Improvements"). This proposed assessment formation was conducted pursuant to the majority protest requirements of the Landscaping and Lighting Act of 1972 (the "Act"). Under the Act, each property owner within the District received a notice of the proposed assessment by mail and was provided with a 45 day time period in which to submit a written protest for the proposed assessment district. Since a majority protest was not received by the end of this period, the District board took action to approve the levy of the assessments.

In response to new balloting requirements proposed by Proposition 218, the District conducted an election in November 1996 on the question of the continuation of the assessment levies. In this election, the final tally was 67.7% of voters in support of continuing the assessments. As a result, the assessments for the West Contra Costa Unified School District Maintenance and Recreation Assessment District can continue to be levied at the rate of \$72.00 per single family home. Any increase in the assessment rate would require approval of property owners in an assessment ballot proceeding as proscribed by Proposition 218.

This Engineer's Report has been prepared to establish the basis for the continuation of the assessments for fiscal year 2015-16

ASSESSMENT CONTINUATION

In each subsequent year for which the assessments will be levied, the Board must direct the preparation of an Engineer's Report, budgets and proposed assessments for the upcoming fiscal year. After the Engineer's Report is completed, the Board may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments. This Report was prepared pursuant to the direction of the Board adopted on March 4, 2015.

The proposed total assessment budget for fiscal year 2015-16 is \$5,583,168. The majority of this levy amount would be used for maintenance of school grounds and public facilities. Funding is also designated towards utilities, field preservation and maintenance, and graffiti and vandalism abatement. This capital improvement budget has historically been allocated to school sites based on the project priorities specified by school site councils and school staff.

If the Board approves this Engineer's Report and the proposed assessments by resolution, a notice of assessment levies must be published in a local paper at least 10 days prior to the date of the public hearing. The resolution preliminarily approving the Engineer's Report and establishing the date for a public hearing is used for this notice.

Following the minimum 10 day time period after publishing the notice, a public hearing is held for the purpose of allowing public testimony about the proposed continuation of the assessments. This hearing is currently scheduled for June 10, 2015. At this hearing, the Board would consider approval of a resolution confirming the assessments for fiscal year 2015-16. If so confirmed and approved, the assessments would be submitted to the County Auditor/Controller for inclusion on the property tax roll for fiscal year 2015-16.

LEGISLATIVE ANALYSIS

PROPOSITION 218

This assessment is formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now codified as 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 to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including property-owner balloting, for the imposition, increase and extension 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 AUTHORITY

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

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the Improvement District
- The assessment paid by property should be proportional to the special benefits it receives from the Improvements

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeals amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona in Dahms v. Downtown Pomona Property ("Dahms"). On July 22, 2009, the California Supreme Court

denied review. In *Dahms* the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale 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

On December 31, 2009, in *Bonander v. Town of Tiburon* ("*Bonander*"), the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments primarily on the grounds that the assessments had been apportioned to assessed property based on the costs within sub-areas of the assessment district instead of the overall cost of the improvements and the overall proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeals issued a 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

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

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the *SVTA* decision and with the requirements of Article XIII C and XIII D of the California Constitution because the Improvements to be funded are clearly defined; the benefiting property in the Improvement District enjoys close and unique proximity, access and views to the Improvements; the Improvements serve as an extension of usable land area for benefiting properties in the Improvement District and such special benefits provide a direct advantage to property in the Improvement District that is not enjoyed by the public at large or other property.

This Engineer's Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because, the improvements will directly benefit property in the Improvement District and the general benefits have been excluded from the Assessments, and the special and general benefits have been separated and quantified. The Engineer's Report is consistent with *Bonander*

because the Assessments have been apportioned based on the overall cost of the Improvements and proportional special benefit to each property.

PLANS AND SPECIFICATIONS

The work and improvements to be undertaken by the West Contra Costa Unified School District Maintenance and Recreation Assessment District and the cost thereof paid from the levy of the annual assessment (the "Improvements") are generally described as follows:

Installation, maintenance and servicing of public recreational facilities and improvements, including but not limited to, turf and play areas, landscaping, irrigation systems, lighting, fencing, basketball courts, tennis courts, running tracks, security guards, graffiti removal and repainting, swimming pools, recreational facilities, and labor, materials, supplies, utilities and equipment, as applicable, at each of the locations owned, operated or maintained by the West Contra Costa Unified School District.

Any plans and specifications for these improvements will be filed with the Associate Superintendent, Business Services of the West Contra Costa Unified School District and are incorporated herein by reference.

"Maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; providing for the life, growth, health, and beauty of landscaping, including, cultivation, irrigation, trimming, spraying, fertilization, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste, and the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

"Servicing" means the furnishing of electric current, or energy, gas or other source for illumination for any public lighting facilities or for the lighting or operation of any fountains, or the maintenance of any other improvements.

Incidental expenses include all of the following: (a) The costs of preparation of the Engineer's Report, including plans, specifications, estimates, diagram, and assessment; (b) the costs of printing, advertising, and the giving of published, posted, and mailed notices; (c) compensation payable to the County for collection of assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance and servicing of the Improvements; (f) any expenses incidental to the issuance of bonds or notes if any pursuant to Streets & Highways Code Section 22662.5; and (g) costs associated with any balloting process held for the approval of a new or increased assessment. (Streets & Highways Code §22526).

The assessment proceeds will be exclusively used for Improvements within the Assessment District plus incidental expenses. In addition to ongoing annual maintenance, the following is a list of projects that have been funded with MRAD funds include:

Kennedy Swim Center Annual Maintenance & Repair	
Chavez Elementary School	Playground Surfacing
Chavez Elementary School	Playground Surfacing
Crespi Middle School	Buff & Coat Gym
DeAnza High School	Refinish Gyms
DeJean Middle School	Buff & Coat Gym
El Cerrito High School	Buff & Coat Gym
Ellerhorst Elementary School	Playground Striping
Helms Middle School	Buff & Coat Gym
Hercules High School	Buff & Coat Gym
Hercules Middle School	Playground Surfacing
Kennedy High School	Buff & Coat Gym
Richmond High School	Buff & Coat Gym
Shannon Elementary School	Playground improvements

For further detail, including specific expenditure and improvement plans by school site, refer to the plans and specifications on file with the District.

ESTIMATE OF COST FISCAL YEAR 2015-16

FIGURE 1 – ESTIMATE OF COST

West Contra Costa Unified School District Maintenance and Recreation Assessment District

Estimate of Cost
Fiscal Year 2015-16

	<i>Total Budget</i>
Capital Improvement and Maintenance Expenditures	
Capital Improvements to School Facilities and Grounds	\$544,806
Field Preservation and Maintenance	\$86,000
Utilities, Irrigation	\$154,000
Graffiti and Vandalism Abatement	\$300,000
Maintenance and Operation	\$4,400,000
Total Capital Improvement and Maintenance Expenditures	\$5,484,806
Incidental Costs	
Legal Counsel and Administrative Services	\$36,500
Contra Costa County Data and Collection Fees	\$51,862
Notice and Contingency	\$10,000
Total Incidental Costs	\$98,362
Total Maintenance and Recreation Assessment Budget	\$5,583,168
Assesment to SFE	
Assessment per SFE	Total SFE Units
\$72.00	77,544
	Total Budget
	\$5,583,168

ASSESSMENT

WHEREAS, on March 4, 2015, the Board of Education of the West Contra Costa Unified School District, Richmond, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Directing Preparation of Annual Report for the West Contra Costa Unified School District Maintenance and Recreation Assessment District for the proposed improvements and changes in existing public improvements, more particularly therein described;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the assessment district and an assessment of the estimated costs of the improvements upon all assessable parcels within the assessment district, to which said Resolution and the description of proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the Board of Education of said West Contra Costa Unified School District, hereby make the following assessment to cover the portion of the estimated cost of said improvements, including the maintenance and servicing thereof and the costs and expenses incidental thereto to be paid by the assessment district.

The amount to be paid for said improvements, including the maintenance and servicing thereof and the expenses incidental thereto, to be paid by the assessment district for the fiscal year 2015-16 is generally as follows:

FIGURE 2 – SUMMARY OF ESTIMATE

West Contra Costa Unified School District Maintenance and Recreation Assessment District Budget Summary - Fiscal Year 2014-15	
Capital Improvements and Maintenance Expenditures	5,484,806
Incidentals	98,362
Total Budget	\$5,583,168

As required by said Act, an Assessment Diagram is hereto attached showing the exterior boundaries of said Maintenance and Recreation Assessment District as the same existed at the time of the passage of said Resolution. The distinctive number of each parcel or lot of land in the said Maintenance and Recreation Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said net amount of the cost and expenses of said improvements, including maintenance and servicing thereof, upon the parcels or lots of land within said Maintenance and Recreation Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the maintenance of said improvements, and more particularly set forth in the Cost Estimate hereto attached and by reference made a part hereof.

Said assessment is made upon the parcels or lots of land within said Maintenance and Recreation Assessment District in proportion to the special benefits to be received by said parcels or lots of land, from said improvements.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Contra Costa for the fiscal year 2015-16. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel within the Assessment Roll, the amount of the assessment for the fiscal year 2015-16 for each parcel or lot of land within the said Maintenance and Recreation Assessment District.

Dated: April 24, 2015

Engineer of Work

By

John W. Bliss, License No. C052091



METHOD OF APPORTIONMENT

This section of the Engineer's Report explains the special and general benefits to be derived from the Improvements and the methodology used to apportion the total assessment to properties within the Maintenance and Recreation Assessment District.

The Maintenance and Recreation Assessment District consists of all Assessor Parcels within the boundaries of the West Contra Costa Unified School District as defined by the County of Contra Costa tax code areas. The method used for apportioning the assessment is based upon the proportional special benefits conferred to the properties in the Assessment District over and above general benefits conferred to real property in the Assessment District or to the public at large. Special benefit is calculated for each parcel in the Assessment District using the following process:

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

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to property. Any and all general benefit must be funded from another source. This special benefit is received by property over and above any general benefits from the Improvements. With reference to the requirements for assessment, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

Proposition 218, as described in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property and that the assessment cannot exceed the reasonable cost of the special benefits:

"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 SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements can provide a direct advantage and special benefit to property that is proximate to a park or recreational facility:

"the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values)."

Finally, Proposition 218 twice uses the phrase "over and above" general benefits in describing special benefit. (Art. XIID, sections 2(i) & 4(f).)

SPECIAL BENEFIT FACTORS

In order to allocate the proposed assessments, the Engineer begins by identifying the types of special benefit arising from the Improvements that would be provided to property within the District. These categories of special benefit, which have been updated to reflect a recent analysis of special benefits from the Improvements, are summarized as follows:

- Extension of a property's usable outdoor areas for properties within the Assessment District
- Proximity and access to improved outdoor grounds and recreation facilities

The special benefits from the Improvements are further detailed below:

EXTENSION OF A PROPERTY'S OUTDOOR AREAS FOR PROPERTIES WITHIN THE ASSESSMENT DISTRICT

The District's sites in the Assessment District provide larger outdoor areas that serve as an effective extension of the land area for proximate properties because the Improvements are accessible to property in close proximity to the Improvements. The Improvements, therefore, provide an important, valuable and desirable extension of usable land area for the direct advantage and special benefit of properties with good and close proximity to the Improvements.

An analysis of the service radii for the Improvements finds that properties enjoy the distinct and direct advantage of being proximate to Improvements within the Assessment District. Other properties in outside the Assessment District do not enjoy this proximity that provides the effective extension of usable land area and, therefore do not receive this special benefit. The properties in the Assessment District therefore uniquely and specially

benefit from the extension of usable and improved outdoor and recreational areas provided by the Improvements.

PROXIMITY AND ACCESS TO IMPROVEMENTS

Only the specific properties within close proximity to the Improvements are specially benefited and assessed in the Assessment District. Therefore, property in the Assessment District enjoys unique and valuable proximity and access to the Improvements that the public at large and other properties do not share.

In absence of the assessments, the Improvements would not be provided, because alternative funding sources are not available. 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 certain parcels in the Assessment District, they provide a direct advantage and special benefit to assessed property in the Assessment District.

GENERAL VERSUS SPECIAL BENEFIT

The District's grounds and facilities provide a general benefit to the community and to the general public in the form of educational and recreational opportunities for students. The measure of this general benefit is the periods during which the District's grounds and facilities are used for such educational purposes and are, therefore, not available to be used as a public recreation resource. This general benefit cannot be and is not funded by the Maintenance and Recreation Assessment District.

Alternatively, the cost of improving and maintaining grounds and facilities for use and enjoyment by property owners and residents in the District is a special benefit to property in the District because the improvements and maintenance confer the special benefit factors described above. This special benefit can be measured by the proportionate amount of time the District's grounds and facilities are available for use and enjoyment by property owners and other residents in the District.

The percentage of time that the District's facilities are available for public use is approximately 67%.¹ The remaining 33% of time the grounds and public facilities are

¹ The percentage of time that the grounds and facilities are available for public use is calculated based on the number of daylight hours in a year that the facilities are available for public use divided by the total number of daylight hours in a year. This calculation is as follows:

Total hours available = 365 days x 12 hours/day = 4,380 hours.

Hours for educational use (general benefit) = 182 days x 8 hours/day = 1,456 hours.

Hours available for public use = 4,380 total hours – 1,456 hours = 2,924 hours.

Percentage of time for public use = 2,924 hours / 4,380 total hours = 67 %

used for general educational purposes. Therefore, approximately 33% of the cost of maintenance and improvements of grounds and facilities is for the educational purposes of the District, which is a general benefit to the community. As noted, the cost of these general benefits cannot be funded by the assessments.

The District's total budget for maintenance and improvement of its grounds and facilities exceeds \$16,800,000 and the District's contribution to the maintenance and improvement of its grounds and facilities from sources other than assessments is approximately \$11,000,000 of this total. This contribution by the District equates to approximately 65% of the total budget for maintenance and improvement of grounds and facilities, which more than offsets the cost of the general benefits resulting from the Improvements, including any additional general benefits to the public at large or property in the Assessment District. The remaining portion of the budget that is funded by the assessment covers the special benefits conferred on property in the District.

METHOD OF ASSESSMENT

The assessments are apportioned among all lots and parcels within the Maintenance and Recreation Assessment District on the basis of Single Family Equivalents (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated a SFE value, which is each property's relative benefit in relation to a single family home on one parcel. The "benchmark" property is the single family detached dwelling which is one Single Family Equivalent or one SFE.

PROXIMITY BENEFITS

The West Contra Costa Unified School District's recreational facilities and grounds, as identified in the Plans and Specifications, are open to the community and are used extensively throughout the year. The District's facilities are relatively uniformly distributed throughout the District and are easily accessible by anyone within the District. The benefits from the proposed improvements do not vary based on proximity of the parcels to the improvements because the increased benefits resulting from proximity to the improvements are generally offset by increased negative factors such as increased traffic, noise, etc. that derives to parcels from increased proximity to the improvements. As a result, any increase in benefit that comes from being closer to a District facility is generally offset by an increase in negative factors that cause a relational decrease in benefit.

Since all parcels in the District have good access and proximity to the District's grounds and recreational facilities and the benefits to relatively closer proximity are offset by other factors, proximity is not considered to be a factor in determining benefit and all properties in the Maintenance and Recreation Assessment District are determined to be within a single zone of benefit.

ASSESSMENT APPORTIONMENT

1. For developed Assessor parcels with one, two, three or four living units, the SFE Units is the number of living units per parcel.
2. For Assessor parcels with five to twelve living units, the SFE Units is 5.
3. For Assessor parcels with thirteen to twenty-four living units, the SFE Units is 8.
4. For Assessor parcels with twenty-five to fifty-nine living units, the SFE Units is 10.
5. For Assessor parcels with sixty or more living units, the SFE Units is 15.
6. For developed mobile home park parcels, the SFE Units is 5.
7. For developed commercial and/or industrial parcels with no living units, the SFE Units is 0.
8. For publicly owned parcels, vacant or undeveloped land or parcels with no assessed value, the SFE Units is 0.
9. For agricultural parcels with no living units, the SFE Units is 0.
10. For institutional, recreational, common area, parking lot, natural resource, other or miscellaneous parcels with no residential living units, the SFE Units is 0.

The assessment for each parcel is listed on the Assessment Roll in the following section. The assessments are based on the method of assessment summarized above.

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the Associate Superintendent, Business Services of the West Contra Costa Unified School District or his or her 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 Associate Superintendent, Business Services or his or her designee will promptly review the appeal and any information provided by the property owner. If the Associate Superintendent, Business Services or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County of Contra Costa for collection, the Associate Superintendent, Business Services 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 Associate Superintendent, Business Services or his or her designee, shall be referred to the Board of Education of the West Contra Costa Unified School District and the decision of the Board of Education of the West Contra Costa Unified School District shall be final.

APPENDIX B - ASSESSMENT ROLL (FISCAL YEAR 2015-16)

Reference is hereby made to the Assessment Roll in and for said assessment proceedings on file in the office of the Clerk of the Board of Education, as said Assessment Roll is too voluminous to be bound with this Engineer's Report.

