

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD APPROVING ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF ASSESSMENT FOR FISCAL YEAR 2017 FOR THE ANNEXATION OF SPINDRIFT AT EDEN SHORES PROPERTY TO BENEFIT ZONE NO. 12 OF THE CITY OF HAYWARD LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 96-1

WHEREAS, the City of Hayward provides for the maintenance and improvement of street lighting, open space, parks, landscaping, and detention basins through the City's Landscaping and Lighting Assessment District No. 96-1 ("District"); and

WHEREAS, these maintenance services and improvements provide direct and special benefits to properties in the District; and

WHEREAS, the annexation of property to Benefit Zone No. 12 of the District was a condition of development approval for the property known as Spindrift at Eden Shores (the "Annexation Area"); and

WHEREAS, this proposed annexation would provide direct and special benefits to the Annexation Area by providing partial funding for the maintenance and improvement of the Alden E. Oliver Sports Park; and

WHEREAS, the procedures for the proposed annexation of the Annexation Area provide owner(s) of the property with the opportunity to submit ballots for the proposed annexations and assessment levies that would fund the maintenance services and improvements; and

WHEREAS, this Council designated SCI Consulting Group as Engineer of Work and ordered said Engineer to make and file an Engineer's Report ("Report"); and

WHEREAS, the Report was duly made and filed with the Council and duly considered by this Council and found to be sufficient in every particular aspect, whereupon it was determined that the Report should stand as the Engineer's Report for all subsequent proceedings; and

WHEREAS, pursuant to Article XIID and Government Code §53753, a joint notice and mail ballot was duly and regularly given, including the notice that this Council would be conducting a public hearing on June 14, 2016, on the question of the proposed benefit zone annexation; and

WHEREAS, on June 14, 2016, at the hour of 7:00 PM, at the City Council Chambers of the City of Hayward, 777 B Street, Hayward, California, 94541, the public hearing was

continued to allow time for the property owner to submit a ballot in support of the proposed annexation; and

WHEREAS, on June 21, 2016, at the hour of 7:00 PM, at the City Council Chambers of the City of Hayward, 777 B Street, Hayward, California, 94541, the continued public hearing was held, and all persons interested and desiring to be heard were given an opportunity to speak and be heard, and all matters and things pertaining to the proposed annexation and levies were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly considered; and

WHEREAS, at the public hearing, the City Clerk, as directed by the City Council tabulated the mail ballots and found that a majority protest as defined by Article XIID did not exist, and this Council thereby acquired jurisdiction to order the levy and the confirmation of the diagram and assessments prepared by and made a part of the Report to pay the costs and expenses thereof.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hayward, that:

1. The weighted assessment ballot submitted in favor of the annexation of Spindrift at Eden Shores property into Benefit Zone No. 12 of the City of Hayward Landscaping and Lighting Assessment District No. 96-1 exceeded those weighted ballots submitted in opposition to the annexation and assessments.
2. The property benefitted by the improvements and assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by maps thereof filed in the office of the Council, which maps are made a part hereof by reference thereto.
3. The Engineer's Report as a whole and each part thereof, includes:
 - (a) The Engineer's estimate of the itemized and total costs and expenses of maintaining the improvements and of the incidental expenses in connection therewith; and
 - (b) The diagram showing the Annexation Area, and the boundaries and dimensions of the respective lots and parcels of land within the Annexation Area; and
 - (c) The assessment of the total amount of the costs and expenses of the proposed maintenance of the improvements at the Alden E. Oliver Sports Park in proportion to the estimated special benefits to be received by such lots and parcels, respectively, from the maintenance, and of the expenses incidental thereto.
4. Final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimates of the costs and expenses, the diagrams and the

assessments, as contained in the Report as hereinabove determined and ordered, is intended to and shall refer and apply to the Report, or any portion thereof as amended, modified, or revised or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by this Council.

5. The annexation of Spindrifft at Eden Shores into the existing Benefit Zone No. 12 of the City of Hayward Landscaping and Lighting Assessment District 96-1 is hereby approved.

6. The assessments to pay the costs and expenses for the maintenance of the improvements within the Alden E. Oliver Sports Park for Fiscal Year 2017 are hereby levied.

7. The property within the Annexation Area shall be levied assessments according to the special benefits received pursuant to the assessment rate and methodology described in the Engineer's Report for the Annexation Area.

8. Based on the oral and documentary evidence, including the Engineer's Report offered and received at the hearing, this Council expressly finds and determines: (a) That each of the several lots and parcels of land will be specially benefitted by the maintenance of the improvements at least in the amount if not more than the amount, of the assessment apportioned against the lots and parcels of land, respectively; and (b) That there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the aforesaid finding and determination as to special benefits.

9. Immediately upon the adoption of this resolution, but in no event later than the second Monday in August following such adoption for the fiscal year in which the assessments will initially be levied, the City shall file a certified copy of the assessments and a certified copy of this resolution with the Auditor of the County of Alameda. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment roll. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to Benefit Zone No. 12 of the Landscaping and Lighting Assessment District 96-1 of the City of Hayward.

10. The monies representing assessments collected by the County shall be deposited in a City fund or account specific to Zone 12 of Landscaping and Lighting District 96-1. Monies in the improvement funds shall be expended only for the maintenance, servicing, construction or installation of the improvements.

IN COUNCIL, HAYWARD, CALIFORNIA June 21, 2016

ADOTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: COUNCIL MEMBERS:

Miriam Lens, City Clerk, City of Hayward

ATTEST: _____

APPROVED AS TO FORM:

Michael Lawson, City Attorney of the City of Hayward