

THE BOARD OF DIRECTORS OF HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT

RESOLUTION NO. 19-04

RESOLUTION DECLARING THE HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT'S INTENT TO ORDER THE ASSESSMENT SET FORTH IN THE ENGINEER'S REPORT DATED MARCH 19, 2019 AND SET A PUBLIC HEARING FOR MAY 7, 2019 TO CONSIDER THE PROPOSED ASSESSMENT AND ANY OBJECTIONS THERETO

WHEREAS, on March 1, 2016, the Hayward City Council approved Resolution No. 16-030 ordering the formation of the Hayward Geologic Hazard Abatement District and appointed itself to serve as the Hayward Geologic Hazard Abatement District Board of Directors; and

WHEREAS, on February 5, 2019, the GHAD Board accepted a petition from Grupe Investment Company, LLC requesting annexation of Ersted Property development into the GHAD; and

WHEREAS, on February 26, 2019, the GHAD Board held a public hearing on the proposed annexation and Ersted Property Plan of Control ("Plan of Control") and thereafter adopted Resolution 19-02 approving the annexation and adopted Resolution 19-03 approving the Plan of Control; and

WHEREAS, in order to pay for costs and expenses of maintaining and operating the GHAD improvements as set forth in the Plan of Control, a funding source must be established; and

WHEREAS, an Engineer's Report has been prepared to support a real property assessment against the 59 homes at a FY 2018/19 level of \$932.00 per single-residential unit for GHAD services and is attached as Attachment 1;

WHEREAS, Public Resources Code sections 26650 *et seq.* authorize, after a noticed public hearing, the levy and collection of an assessment upon specially benefited property within the GHAD to pay for the maintenance and operation of GHAD improvements. Article XIII(D) of the California Constitution imposes additional requirements for the levy and collection of said assessment;

WHEREAS, the Engineer's Report was prepared by the GHAD Manager to reflect the Plan of Control adopted by the GHAD Board on February 26, 2019, the GHAD Manager is a registered professional engineer, certified in the State of California, in compliance with Public Resources Code section 26651(a) and section 4(b) of Article XIII (D) of the California Constitution; the Engineer's Report attached hereto as Attachment 1 sets forth the purpose of the Ersted Property portion of the GHAD, the estimated budget, the total assessment that will be chargeable to the Ersted Property portion of the GHAD, the proposed estimated assessment to be levied against each parcel of property within the Ersted Property portion of the GHAD, and a description of the method used in formulating the estimated assessments; and

WHEREAS, the property within the Ersted Property portion of the GHAD is identified on the map attached as Attachment 2 and each parcel is proposed to be assessed.

The Board of Directors of the GHAD HEREBY RESOLVES THAT:

1. The GHAD Board declares its intention, consistent with the requirements of Article XIII (D) of the California Constitution, Public Resources Code sections 26650 et seq., Government Code section 53750, and Elections Code section 4000, to order that the cost and expenses of maintaining and operating any GHAD improvements in the Ersted Property development acquired or constructed pursuant to Public Resources Code sections 26500 et seq. shall be assessed against the property within the Ersted Property portion of the GHAD, which is benefited by the these properties in this portion of the GHAD.
2. The GHAD Board shall not order this assessment if a majority protest exists within the Ersted Property portion of the GHAD as defined in Section 4(e) of Article XIII(D) of the California Constitution.
3. Each of the parcels identified in Attachment 2 will receive a particular and distinct special benefit in the form of GHAD facilities and services that are over and above the general benefits received by the general public. Specifically, the GHAD's maintenance responsibilities include prevention and abatement of geologic hazards such as landslides and slope erosion within the Ersted Property portion of the GHAD. The GHAD will have responsibilities that include (a) maintenance of slopes, retaining walls, drainage ditches, and storm drain systems, (b) vegetation control for fire suppression, and (c) establishment of a reserve to fund, prevent, mitigate, abate or control geologic hazards within this area. These special benefits are described in detail in the Plan of Control.
4. Whenever a residential building permit is issued on the 59 parcels identified in Attachment 2, that lot will be assessed on an equal basis with each single family in the development. The annual assessment amount for each residential unit was calculated by dividing the annual Ersted Property portion of the GHAD budget by the number of residential units then existing within the that portion of the GHAD boundaries.
5. The GHAD Board has reviewed and considered the attached Engineer's Report. The special benefit derived from the GHAD by each parcel is proportionate to the entire costs of the Ersted Property portion of the GHAD, and the amount of the assessment is proportional to, and no greater than, the benefits conferred on each parcel. The assessment does not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
6. The GHAD Board directs the GHAD Manager to mail or cause to be mailed, no later than three (3) days after adoption of this Resolution, the "Notice of Adoption of Resolution and Notice of Assessment" of the Public Hearing, in substantially the same form as in Attachment 3 ("Notice") to the record owners of each parcel upon which the assessment will be imposed. The sealable Ballot, attached hereto as Attachment 4, and the GHAD Engineer's Report, shall be attached to the Notice.
7. The GHAD Board will conduct a public hearing on May 7, 2019 at the chambers of the Hayward City Council at 777 B Street, Hayward, CA 94541 at 7 p.m. or thereafter. The Manager of the GHAD shall deliver all sealed ballots received from record owners of parcels within the Ersted Property portion of the GHAD to the GHAD hearing. The ballots shall remain sealed until they are tabulated. The GHAD Board shall permit a change, withdrawal, or submittal of a ballot at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing. The GHAD Board shall consider all protests against the proposed assessment. At the GHAD Board hearing, the Clerk of the GHAD, or some other impartial person not having a vested interest in the outcome of the proposed

assessment, shall tabulate the ballots, and shall weight the ballots according to the proportional financial obligation of the affected property. The GHAD Board shall not impose the assessment if there is a majority protest as that term is defined by Section 4(e) of Article XIII (D) of the California Constitution. If there is no majority protest, the GHAD Board shall authorize the assessment. Following the public hearing, the GHAD Board shall consider the adoption of the canvas of votes for the GHAD.

8. Upon authorization of the assessment, the GHAD Board shall levy the authorized assessment on the 59 parcels the first fiscal year following issuance of a residential building permit for each of those parcels.

This Resolution shall become effective immediately upon its passage and adoption.

HAYWARD, CALIFORNIA, March 19, 2019

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Attachment 1 – Engineer’s Report

Attachment 2 – Legal Description and Plat

Attachment 3 – Notice of Adoption of Resolution and Notice of Assessment

Attachment 4 – Ballot



**ERSTED DEVELOPMENT ANNEXATION
HAYWARD, ALAMEDA COUNTY, CALIFORNIA**

**ENGINEER'S REPORT
FOR ERSTED PROPERTY, TRACT 8439**

SUBMITTED TO
Hayward Geologic Hazard Abatement District
777 B Street
Hayward, CA 94541

PREPARED BY
ENGEO Incorporated, GHAD Manager

March 19, 2019

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ENGINEER'S REPORT

**HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT
ERSTED DEVELOPMENT ANNEXATION**
**(Pursuant to the Public Resources Code of the State of California,
Section 26500 et seq.)**

CERTIFICATION OF FILING

The Geologic Hazard Abatement District ("GHAD") provides monitoring and maintenance of improvements related to geologic hazard management and other responsibilities as a landowner, within the Ersted Residential Development portion of the Hayward GHAD. The GHAD also levies and collects assessments in order to perform its activities.

The GHAD responsibilities, which are the subject of this report, are defined as any activity that is necessary or incidental to the prevention, mitigation, abatement, or control of a geologic hazard, construction, maintenance, repair, or operation of improvement; or the issuance and servicing of bonds issued to finance any of the foregoing (Section 26505).

This report consists of seven parts, as follows:

- I. INTRODUCTION
- II. BACKGROUND
- III. GEOLOGIC HAZARD ABATEMENT DISTRICT DIAGRAM
- IV. SERVICE LEVELS
- V. DESCRIPTION OF GHAD MAINTAINED IMPROVEMENTS
- VI. ASSESSMENT METHOD
- VII. ASSESSMENT LIMIT - BUDGET PROJECTION

The undersigned respectfully submits the enclosed Engineer's Report.

Date: March 19, 2019

By: ENGEO Incorporated

_____, GE
Paul C. Guerin

I HEREBY CERTIFY that the enclosed Engineer's Report was filed on the 19th day of March 2019.

Patricia Curtin
Attorney and Acting Clerk of the Board
Hayward Geologic Hazard Abatement District
Alameda County, California

I HEREBY CERTIFY that the enclosed Engineer's Report was approved and confirmed by the GHAD Board on the 19th day of March 2019.

Eric Harrell
GHAD Manager
Hayward Geologic Hazard Abatement District
Alameda County, California

ENGINEER'S REPORT

for

HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT ERSTED DEVELOPMENT ANNEXATION HAYWARD, ALAMEDA COUNTY, CALIFORNIA for the ESTABLISHMENT OF AN ASSESSMENT LIMIT

I. INTRODUCTION

The Hayward City Council formed the Hayward Geologic Hazard Abatement District ("GHAD" or "District") on March 1, 2016 (Resolution No. 16-030), under the authority of the California Public Resources Code, Division 17, Section 26500 et seq. The GHAD Board of Directors approved the annexation of the Ersted Property into the GHAD on February 26, 2019, with the approval of Resolution No. 19-02 ("GHAD Annexation Area"). The members of the Hayward City Council act as the Board of Directors of the GHAD.

II. BACKGROUND

The Hayward Board of Directors approved the Plan of Control for the Ersted Development Annexation ("Plan of Control") with the approval of Resolution No. 19-03 on February 26, 2019. The Plan of Control describes the GHAD's responsibilities to permanently monitor and maintain GHAD improvements within the GHAD Annexation Area. This Engineer's Report describes the establishment of an assessment level to fund GHAD activities necessary or incidental to geologic hazard mitigation, abatement, and control.

III. GEOLOGIC HAZARD ABATEMENT DISTRICT BOUNDARIES

The boundaries for the GHAD Annexation Area are shown in the legal description and plat attached hereto as Exhibit A.

IV. SERVICE LEVELS

The GHAD's activities are those that are necessary or incidental to the prevention, mitigation, abatement, or control of geologic hazards including construction, maintenance, repair, or operation of any improvement; and the issuance and servicing of bonds issued to finance any of the foregoing.

The GHAD provides for the administration and review of facilities within the budgeted limits, including the following services:

1. Oversight of GHAD operations, including reporting to the GHAD Board of Directors.
2. In conjunction with the Alameda County Assessor's Office, setting the annual levying of assessments on the property tax rolls.

3. Engagement of technical professionals to perform the monitoring duties as described in the Plan of Control.
4. Performance of GHAD maintenance activities in accordance with the Plan of Control. These maintenance activities include:
 - General maintenance of the surface drainage improvements within the GHAD Boundary with the exception of the water quality/flow control basin. The GHAD is responsible for general monitoring, maintenance, and repair of the concrete-lined drainage ditches, storm drain inlets and outlets in open space, subdrain outlets, and risers.
 - Monitoring and maintenance of measurement devices, such as piezometers, inclinometers, and tiltmeters, if any.
 - Maintenance of existing property line/boundary fencing on Parcels M and N.
 - Maintenance of debris benches and/or catchment structures.
 - Maintenance of storm drain inlets, outfalls and pipelines within Parcels M and N.
 - Maintenance of trails within Parcels M and N.
 - Maintenance of slopes.
 - Vegetation control for fire suppression on Parcels M and N.
5. Preparation of annual GHAD budgets for approval by the GHAD Board of Directors.

V. DESCRIPTION OF THE IMPROVEMENTS MAINTAINED BY THE GHAD

The GHAD-maintained improvements are described in the Plan of Control. In general, these improvements include drainage systems, including concrete-lined ditches in developed areas and open space; open-space storm drain inlets and outlets; subdrains and outlets; and selected retaining walls.

VI. ASSESSMENT METHOD

The improvements and GHAD responsibilities described in Section V are distributed within the GHAD Annexation Area. The improvements described in this document will confer the following special benefits to the assessed parcels:

1. Protection from slope instability.
2. Protection from erosion due to uncontrolled surface water.
3. Protection of water quality.
4. Protection from wild land fires due to unmanaged vegetation.

The GHAD assessment is distributed among all residential property owners within the GHAD Annexation Area. The improvements and responsibilities listed in Section V provide specific

benefits to the properties within the GHAD Annexation Area and the improvements are constructed for the benefit of those assessed and not the general public.

The GHAD Annexation Area consists of 59 duplex and triplex townhome residences. Single-family residential lots are assessed as one unit and are assessed equally. The total number of residential units within the GHAD Annexation Area was considered in light of the annual GHAD Annexation Area budget in developing the annual assessment amount.

The Engineer hereby finds that the residential properties within the GHAD Annexation Area receive approximately equal special benefit from the work and improvements within the GHAD. As a result, the GHAD assessment for the GHAD Annexation Area is distributed among all owners of parcels.

A financial analysis was performed to provide a framework for an operating budget for the on-going abatement, mitigation, prevention and control of geologic hazards within the GHAD Annexation Area. In preparation of the budget, several factors were considered including:

1. Site geology
2. Remedial grading
3. Proximity of geologic hazards to proposed residences
4. Improvements and structures
5. Site access considerations
6. Elements requiring routine maintenance, including:
 - Surface drainage facilities
 - Graded slopes
 - Retaining walls
 - Trails and fire breaks

VII. ASSESSMENT - BUDGET

The purpose of this Engineer's Report is to establish the assessment level and the apportionment of the assessment within the GHAD Annexation Area as required under Proposition 218. The annual budget in each subsequent fiscal year will apprise the GHAD Board of Directors of the estimated budget for the upcoming year.

Based on the estimated expenses for on-going operations, and allowing for larger (approximately \$150,000) geologic events at 10-year intervals, a budget was prepared for the purpose of estimating initial assessment levels (Exhibit B).

The Engineer recommends an annual assessment limit for the GHAD Annexation Area of \$932.00 per single-residential unit (Fiscal Year 2018/19 dollars). The proposed initial assessment level will be automatically adjusted annually on June 30 to reflect the percentage change in the San Francisco-Oakland-San Jose Consumers Price Index for All Urban Consumers.

While the assumptions and estimated expenses listed in Exhibit B were used to determine the assessment levels for the GHAD Annexation Area, they do not represent the actual budget for any one year of the GHAD's operation, since assessment of the individual parcels will be based on the issuance of building permits, which will occur over a number of years. In addition, the

Engineer anticipates that the projected expense amounts will be reached over time and that these amounts will be inflation-adjusted in the year that the expenses occur.

Pursuant to the schedule set forth in Section 6.4 of the Plan of Control for the Ersted development, the GHAD reserve at the time of transfer must have a minimum of \$91,000. In addition, all 59 residential units shall be subject to the levy of the GHAD assessment. The minimum reserve amount represents the estimated total assessments that will be collected from within the Ersted development during the period the Owner is responsible for all GHAD activities. The reserve amount requirement may be satisfied by including remaining cash and receivables from the Alameda County Tax Collector during the period that the Owner of the Ersted development is responsible for performing the GHAD activities. Additional funds may be required of the developer in order to satisfy the above-stated minimum reserve requirement and shall be provided to the Hayward GHAD prior to its acceptance of the monitoring and maintenance responsibilities within the Ersted development.

VIII. OWNER RESPONSIBILITIES

Hayward Tennyson Land, LLC ("Owner") is responsible for managing and maintaining the GHAD Annexation Area until the GHAD accepts responsibility for the GHAD Improvements as set forth in the Plan of Control. In addition, the Owner is responsible for funding any necessary GHAD functions or business undertaken for the GHAD Annexation Area that the GHAD Officers or Board of Directors determine are necessary before the GHAD accepts the GHAD Improvements. If the Owner fails to fund all or a portion of these costs, the costs shall be covered by the funds generated by and for the GHAD Annexation Area (i.e., through the assessment) and the Owner shall be required to reimburse the GHAD for such costs before the GHAD can accept monitoring and maintenance responsibilities for the GHAD Improvements.

The GHAD may utilize funds generated by or for the GHAD Annexation Area to conduct any necessary GHAD functions or business for the GHAD Annexation Area required before the GHAD accepts the GHAD improvements. Such functions and business can include periodic reporting to the GHAD Board of Directors and work performed by GHAD Officers to verify the GHAD is implemented in accordance with the Plan of Control and GHAD Law.



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EXHIBIT A
LEGAL DESCRIPTION AND PLATS

EXHIBIT "A"
LEGAL DESCRIPTION
GEOLOGIC HAZARD ABATEMENT DISTRICT
ERSTED PROPERTY - TRACT 8439

REAL PROPERTY IN THE CITY OF HAYWARD, ALAMEDA COUNTY, AND STATE OF CALIFORNIA
DESCRIBED AS FOLLOWS:

BEING ALL OF LOTS 1-59 INCLUSIVE AND PARCELS "A" THRU "Q" INCLUSIVE AS SHOWN ON THAT
CERTAIN MAP, TRACT MAP 8439, FILED FOR RECORD ON _____, IN BOOK ___ OF PAGES _____,
ALAMEDA COUNTY RECORDS.

CONTAINING AN AREA OF 17.21 ACRES MORE OR LESS.

THIS DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH
THE PROFESSIONAL LAND SURVEYORS ACT.

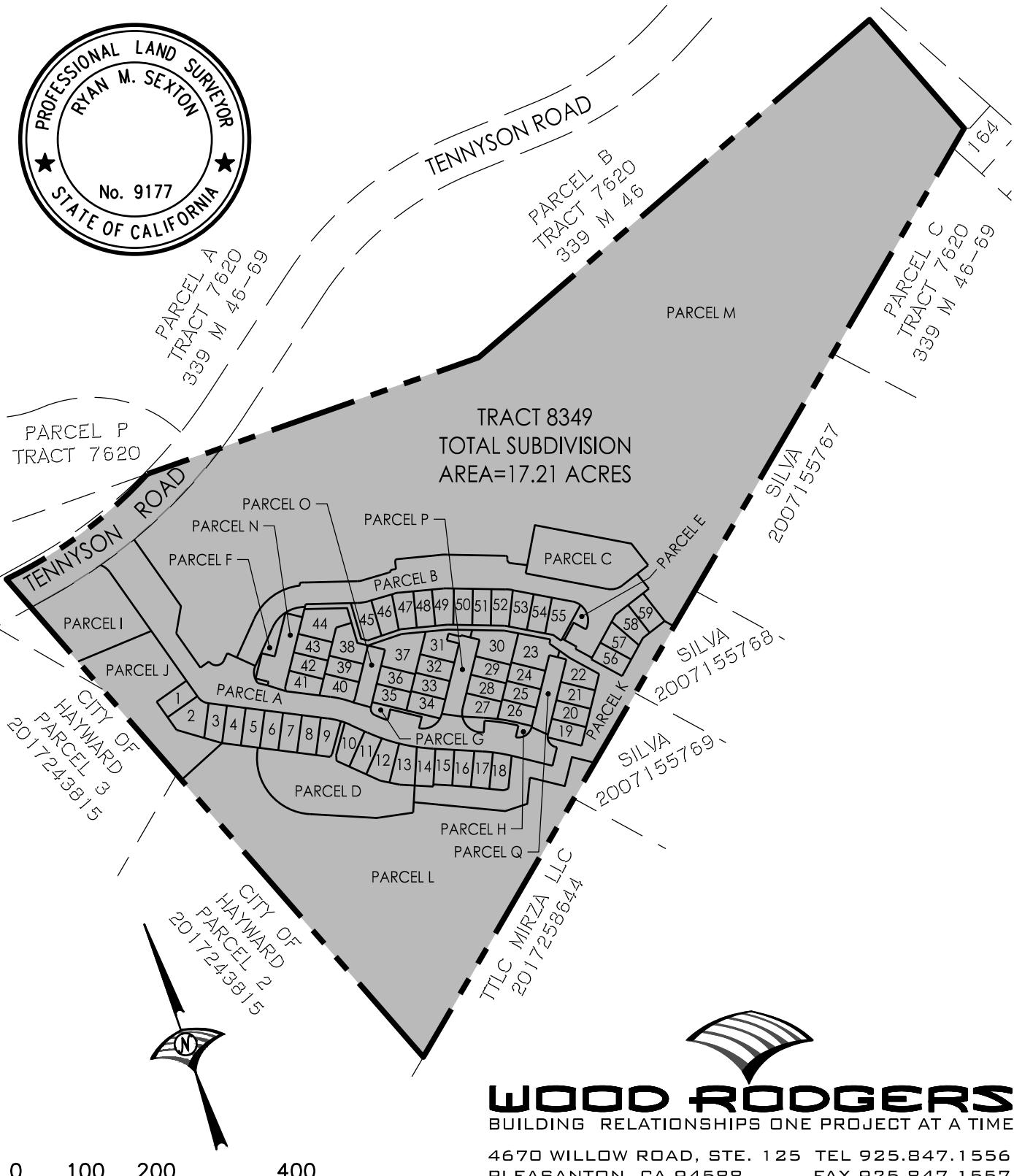
RYAN M. SEXTON / PLS 9177
DECEMBER 13, 2018



EXHIBIT 'B'

PLAT TO ACCOMPANY
DESCRIPTION

GEOLOGIC HAZARD ABATEMENT DISTRICT
ERSTED PROPERTY - TRACT 8439
CITY OF HAYWARD
COUNTY OF ALAMEDA STATE OF CALIFORNIA



WOOD RODGERS
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME

4670 WILLOW ROAD, STE. 125 TEL 925.847.1556
PLEASANTON, CA 94588 FAX 925.847.1557

0 100 200 400

SCALE: 1" = 200'

DEC 13, 2018

3121020

SHEET 1 OF 2



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EXHIBIT B

BUDGET – MARCH 19, 2019

Hayward Geologic Hazard Abatement District – Ersted Property Annexation

Budget – March 19, 2019

ASSUMPTIONS

Total No. of Single Family Residential Units	59
Annual Assessment per Unit (FY 2018/2019)	\$932
Annual Adjustment in Assessment (estimated)	3.0%
Inflation (estimated)	3.0%
Investment Earnings (estimated)	4.5%
Frequency of Large-Scale Repair (years)	10
Cost of Large-Scale Repair (current \$)	\$150,000

ESTIMATED ANNUAL EXPENSES IN 2018/2019 DOLLARS

Administration (Manager, Treasurer, Clerk, and Legal Counsel)	\$ 8,425
Outside Administration Services, Membership, and Insurance	\$ 160
Monitoring Activities	\$ 3,375
Maintenance and Operation	\$ 15,000
Capital Improvements	\$1,921
Major Repair (Annualized)	\$ 15,000
Miscellaneous & Contingency (10%)	\$ 2,888
Reserve	<u>\$ 8,219</u>
TOTAL	<u>\$54,988</u>



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**NOTICE OF (1) ADOPTION OF RESOLUTION NO. 19-04 BY THE BOARD OF DIRECTORS
OF THE HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT,
(2) PROPOSED ASSESSMENT, AND
(3) PUBLIC HEARING FOR MAY 7, 2019**

On March 1, 2016, the Hayward City Council adopted Resolution No. 16-030, ordering the formation of the Hayward Geologic Hazard Abatement District ("GHAD") and itself to serve as the Board of Directors of the GHAD ("GHAD Board").

NOTICE IS HEREBY GIVEN that:

On February 26, 2019, the GHAD Board adopted Resolution No. 19-04 declaring its intention to impose an assessment on the property included in the GHAD and directing that a public hearing be scheduled to consider adoption of this assessment to finance the Hayward GHAD. The total yearly estimated budget for the Santiago GHAD as set forth in the current Engineer's Report is \$54,988. If the assessment is adopted, each single-family residence will be assessed a maximum of \$932.00 per year (Fiscal Year 2018/2019 dollars), plus an annual adjustment to reflect the percentage change in the San Francisco-Oakland-Hayward Consumers Price Index (CIP) for All Urban Consumers. The assessment will be levied beginning in first fiscal year after issuance of a building permit and the assessment will continue to be levied in perpetuity.

The attached Engineer's Report (March 19, 2019) for the Hayward GHAD was prepared by a registered engineer, certified in the State of California, and describes in detail the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated. The draft Engineer's Report specifically sets forth the yearly estimated budget, the total assessment, the proposed estimated assessments to be levied each year against each parcel of property, and a description of the method used in formulating the estimated assessment. A copy of GHAD Board Resolution No. 19-04 is available for inspection at ENGEO Incorporated, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583.

The GHAD Board will conduct the public hearing on May 7, 2019, at 7:00 p.m. at Hayward City Hall, 777 B Street, Hayward, CA 94541, on the proposed assessment.

The following paragraph provides the procedure for returning and tabulating the ballots. Copies of this Notice, a sealable ballot, and the Engineer's Report have been sent to each of the property owners within the Hayward GHAD.

The ballot may be completed and mailed or hand delivered to Hayward Geologic Hazard Abatement District, % ENGEO Incorporated, GHAD Manager, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583 or may be submitted at the public hearing. Each ballot may be submitted, withdrawn, or changed at any time prior to the conclusion of the testimony on the proposed assessment at the public hearing. At the hearing, the GHAD Clerk shall tabulate the ballots and the GHAD Board shall consider any objections or protests to the assessment and certify the tabulation of the ballots.

The GHAD Board shall not impose the assessment if there is a majority protest. A majority protest exists if, upon conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

Inquiries regarding the proposed assessment may be made by mail to: Hayward GHAD % ENGEO Incorporated, Attn: Eric Harrell, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583, by phone at (925) 866-9000, or by e-mail at eharrell@engeo.com.

Enclosures: Engineer's Report (dated March 19, 2019)
Sealable Ballot

BALLOT

Hayward Geologic Hazard Abatement District

Identification of Parcel: Assessor's Parcel Number(s) _____

Record Owner: _____

_____ **YES**, I approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

_____ **NO**, I do not approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

Signature of Record Owner or Authorized Representative of the
above identified parcel(s)

Dated: _____

Mail or deliver sealed Ballot to:
Hayward Geologic Hazard Abatement District
% ENGEO Incorporated, GHAD Manager
Attention: Eric Harrell
2010 Crow Canyon Place, Suite 250
San Ramon, CA 94583