



# **CITY OF HAYWARD**

## **FORMATION OF BENEFIT ZONE 15**

### **LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT No. 96-1 FOR THE CADENCE PROPERTY**

## **FINAL ENGINEER'S REPORT**

JANUARY 2017

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

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**CITY OF HAYWARD**

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## TABLE OF CONTENTS

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<b>INTRODUCTION.....</b>	<b>1</b>
OVERVIEW .....	1
AGREEMENT WITH THE PROPERTY OWNER .....	2
LEGISLATIVE ANALYSIS .....	2
<b>PLANS &amp; SPECIFICATIONS .....</b>	<b>6</b>
INTRODUCTION .....	6
DESCRIPTION OF IMPROVEMENTS .....	6
SUMMARY FIGURE OF COSTS .....	7
<b>FISCAL YEAR 2018 ESTIMATE OF COST AND BUDGET .....</b>	<b>10</b>
<b>METHOD OF ASSESSMENT APPORTIONMENT .....</b>	<b>11</b>
METHOD OF APPORTIONMENT .....	11
DISCUSSION OF BENEFIT .....	11
GENERAL VERSUS SPECIAL BENEFIT .....	13
CALCULATING GENERAL BENEFIT AND SPECIAL BENEFIT PAID FROM OTHER FUNDS.....	14
ZONES OF BENEFIT .....	18
ASSESSMENT APPORTIONMENT .....	19
<b>ASSESSMENT .....</b>	<b>20</b>
<b>ASSESSMENT DIAGRAM.....</b>	<b>22</b>
<b>ASSESSMENT ROLL .....</b>	<b>24</b>

**LIST OF FIGURES**

---

FIGURE 1 – 2018 ANNUAL BUDGETED LANDSCAPING COSTS ..... 7  
FIGURE 2 – 2018 ANNUAL BUDGETED HARDSCAPE COSTS ..... 8  
FIGURE 3 – 2018 ANNUAL BUDGETED MANAGEMENT OTHER COSTS ..... 9  
FIGURE 4 – 2018 COST ESTIMATE ..... 10  
FIGURE 5 – SUMMARY COST ESTIMATE FOR BENEFIT ZONE No. 15 FOR FISCAL YEAR 2018..... 20

## INTRODUCTION

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### OVERVIEW

On May 7, 1996, the City of Hayward ("City") formed the Consolidated Landscaping and Lighting Assessment District No. 96-1 ("District") by consolidating six separate Landscape and Lighting Assessment Districts into six separate zones of benefit within the new District. In subsequent years, eight additional benefit zones (Benefit Zone No. 7 – No. 14) have been created and annexed into the District, creating fourteen separate zones of benefit.

The formation of the Cadence ("Cadence" or the "Assessment Area") properties as Benefit Zone No. 15 in the District is proposed to provide funding for the maintenance and improvements to the Cadence Public Park; including landscaping, irrigation and lighting facilities ("Improvements") to specially benefit the properties in the Assessment Area. Cadence is a multi-family residential development that will consist of 206 units on a 4.5-acre site that is located east of the South Hayward Bart Station, adjacent to Dixon Street, Mission Boulevard and Buckwheat Court.

This formation, described in this Engineer's Report, results from agreements or conditions of development approval between the City of Hayward and the property owner, AMCAL. The City and property owner agreed on maintenance and Improvements of the Public Park in order to improve the utility of these properties through increased access and proximity to the amenities, improved views, extension of desirable outdoor space and other special benefits. Moreover, the City would not approve this development without a reliable funding source for the maintenance of these Improvements.

This Engineer's Report ("Report") was prepared to establish the budget for the services that would be funded by the proposed 2017-18 assessments and to determine the benefits received from the maintenance and Improvements by the Cadence property and the method of assessment apportionment to lots and parcels. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIID of the California Constitution (the "Article").

Following submittal of this Report to the City of Hayward City Council (the "Council") for preliminary approval, the Council may, by Resolution, call for an assessment ballot proceeding and Public Hearing on the proposed establishment of assessments for the maintenance of Improvements.

If the Council approves such Resolution, a notice of assessment and assessment ballot will be mailed to property owners within the Assessment Area. Such notice would include a description of the proposed assessments as well as an explanation of the method of voting on the assessments. Each notice would also include a ballot on which the property owner

could mark his or her approval or disapproval of the proposed assessments, and a postage prepaid envelope in which to return the ballot.

After the ballots are mailed to property owners in the Assessment Area, a minimum 45-day time period must be provided for the return of the assessment ballots, unless a petition is signed to waive the balloting period. Following the ballot period, a public hearing must be held for the purpose of allowing public testimony regarding the proposed assessments. This hearing is scheduled for January 17, 2017 at 7:00 p.m. At this hearing, the public will have the opportunity to speak on this issue and the returned ballots will be tabulated.

If it is determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the Council may take action to form the Assessment Area, authorize the formation, and approve the levy of the assessments for fiscal year 2018. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in August 2017 for inclusion on the property tax roll for Fiscal Year 2017-18.

#### **AGREEMENT WITH THE PROPERTY OWNER**

Pursuant to the Owners Participation Agreement (OPA) for the Cadence Development, the Developer is responsible for the maintenance of the Cadence Public Park in perpetuity or for the life of the agreement. As detailed in the OPA, the Developer is required to submit a Park Maintenance Plan annually to the City for review and approval by City Council as part of the annual review of the District. The Park Maintenance Plan will include a maintenance budget, a schedule of maintenance activities, and reimbursement process specific to the Cadence Development. The Assessment District formation ensures adequate funding is available for the maintenance of the Park should the Developer default, not meet the maintenance standards, or in the event that the property is sold and the City assumes maintenance of the park.

#### **LEGISLATIVE ANALYSIS**

##### **PROPOSITION 218**

Many of the Assessment Districts in the City of Hayward were formed prior to the passage of Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIII C and XIII D 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.) Although these assessments are consistent with Proposition 218, the California judiciary has generally referred to pre-Proposition 218 assessments as “grandfathered assessments” and held them to a lower standard than post Proposition 218 assessments.

Other Assessment Districts that were formed after Proposition 218, including those for Benefit Zone No. 15, are consistent with the approval procedures and requirements imposed by Proposition 218.

**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 vs. SCCOSA”). 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 Assessment Area

This Engineer’s Report and the assessments are consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIIC and XIID of the California Constitution based on the following factors:

1. The assessment revenue derived from real property in the Assessment Area is extended only for specifically identified Improvements and/or maintenance and servicing of those Improvements in the Assessment Area that confer special benefits to property in that Assessment Area.
2. The use of the Assessment Area ensures that the Improvements constructed and maintained with assessment proceeds are located in close proximity to the real property subject to the assessment, and that such Improvements provide a direct advantage to the property in the Assessment Area.
3. Due to their proximity to the assessed parcels, the Improvements and maintenance thereof financed with assessment revenues in the Assessment Area benefit the properties in the Assessment Area in a manner different in kind from the benefit that other parcels of real property in the City derive from such Improvements, and the benefits conferred on such property in Assessment Area are more extensive and direct than a general increase in property values.
4. The assessments paid in the Assessment Area are proportional to the special benefit that each parcel within the Assessment Area receives from such Improvements and the maintenance thereof because of the following:
  - a. The Engineer’s Report specifically identifies the permanent public Improvements that the assessments will finance;
  - b. The costs of such Improvements are estimated and calculated; and
  - c. Such improvement and maintenance costs in the Assessment Area are allocated to each property within the Assessment Area based upon the estimated special benefits received from the Improvements.

#### **DAHMS V. DOWNTOWN POMONA PROPERTY**

On June 8, 2009, the 4<sup>th</sup> District Court of Appeals amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. Hence Dahms is good law and binding precedent for assessments. 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, the 1<sup>st</sup> District Court of Appeals overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

#### **BEUTZ V. COUNTY OF RIVERSIDE**

On May 26, 2010 the 4<sup>th</sup> District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside (“Beutz”) appeal. 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 Appeals issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. 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 of San Diego 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 requirements of Article XIII C and XIII D of the California Constitution and with the SVTA decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment Area; and the Improvements provide a direct advantage to property in the Assessment Area that would not be received in absence of the assessments.

This Engineer’s Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because the Improvements will directly benefit property in the Assessment Area and the general benefits have been explicitly calculated and quantified and excluded from the



assessments. 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 & SPECIFICATIONS

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### INTRODUCTION

The work and Improvements proposed to be undertaken by the City of Hayward and the formation and annexation of the Cadence property to Benefit Zone No. 15 of Landscaping and Lighting Assessment District No. 96-1 and the costs thereof paid from the levy of the annual assessments, will provide special benefit to Assessor Parcels within the Assessment Area as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972, (the "Act") the work and Improvements are generally described as follows:

Installation, maintenance and servicing of public Improvements, may include, but are not limited to, turf and play areas, landscaping, ground cover, shrubs and trees, irrigation systems, drainage systems, lighting, fencing, signage, sidewalks, curbs and gutters, fencing, masonry walls and soil retaining components, play structure and exercise equipment, benches, trash cans and all other park facilities, graffiti removal and repainting, and labor, materials, supplies, utilities and equipment, as applicable, for the property within the Assessment Area that is owned or maintained by the City of Hayward (the "Improvements"). Any plans and specifications for these Improvements will be filed with the Landscape Maintenance Manager of the City of Hayward and are incorporated herein by reference.

As applied herein, "Installation" means the construction of park improvements, including but not limited to, land preparation (such as grading, leveling, cutting and filling), sod, landscaping, irrigation systems, sidewalks, drainage, lights, playground and exercise equipment and benches.

"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, fertilizing, 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 illuminating agent for any public lighting facilities or for the lighting or operation of any other Improvements; or water for the irrigation of any landscaping, or the maintenance of any other Improvements.

### DESCRIPTION OF IMPROVEMENTS

Improvements include all work associated to maintain Improvements, landscaping, irrigation and lighting in the Public Park. Such landscaping consists of the care for groundcover, shrubs, trees, weed abatement in planted areas, upkeep and servicing of the irrigation system, and utility costs to service the landscaping. Additionally, to maintain play structure

and exercise equipment, signs, benches, trash receptacles, and all other amenities within the Public Park. Maintenance also includes graffiti removal, renovations and replacements.

### **SUMMARY FIGURE OF COSTS**

The budget depicted in Figures 1, 2, 3 and 4, on the following pages reflects estimated costs for Fiscal Year 2018. As shown on Figure 4, total 2017-18 maintenance costs for the Cadence formation are anticipated to total **\$49,210** equating to **\$238.88** per single family equivalent.

FIGURE 1 – 2018 ANNUAL BUDGETED LANDSCAPING COSTS

Task	Quantity	Units	Annual Maintenance Rate	Annual Maintenance Costs	Annual Replacement Rate	Annual Replacement Costs	Total Costs	Replacement Years	Unit Replacement Costs
<b>Landscaping</b>									
Grass Area (Sod)	4,495	sqft	\$0.75	\$3,371.25	\$0.06	\$266.70	\$3,637.95	15	0.89
Landscaped Area	13,596	sqft	\$0.50	\$6,798.00	\$0.05	\$679.80	\$7,477.80	15	\$0.75
Trees	46	each	\$75.00	\$3,450.00	\$14.00	\$644.00	\$4,094.00	25	\$350.00
Chipping	1	ls	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00	0	\$0.00
Soil	1	ls	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00	0	\$0.00
Irrigation System	1	ls	\$2,000.00	\$2,000.00	\$2,555.95	\$2,555.95	\$4,555.95	20	\$51,119.00
<b>Sub Totals:</b>				<b>\$17,619.25</b>		<b>\$4,146.45</b>	<b>\$21,765.70</b>		
<b>Total Annual Costs:</b>							<b>\$21,765.70</b>		

FIGURE 2 – 2018 ANNUAL BUDGETED HARDSCAPE COSTS

Task	Quantity	Units	Annual Maintenance Rate	Annual Maintenance Costs	Annual Replacement Rate	Annual Replacement Costs	Total Costs	Replacement Years	Unit Replacement Costs
<b>Paving &amp; Lights</b>									
Concrete Walkway	3,874	sqft	\$0.05	\$193.70	\$0.02	\$77.48	\$271.18	50	\$1.00
Paving	3,349	sqft	\$0.05	\$167.45	\$0.02	\$66.98	\$234.43	50	\$1.00
Rubberized Play Surface	1400	sqft	\$0.05	\$70.00	\$1.25	\$1,750.00	\$1,820.00	10	\$12.50
Park Lights (includes power)	28	each	\$180.00	\$5,040.00	\$0.00	\$0.00	\$5,040.00	25	\$500.00
<b>Park Improvements</b>									
Picnic Tables	4	each	\$50.00	\$200.00	\$65.67	\$262.67	\$462.67	15	\$985.00
On-grade Benches	6	each	\$50.00	\$300.00	\$56.67	\$340.00	\$640.00	15	\$850.00
Trash Cans	15	each	\$25.00	\$375.00	\$7.50	\$112.50	\$487.50	10	\$75.00
Park Signs	2	each	\$50.00	\$100.00	\$16.67	\$33.33	\$133.33	15	\$250.00
Play Structure	1	ls	\$100.00	\$100.00	\$1,466.67	\$1,466.67	\$1,566.67	15	\$22,000.00
Play Equipment	1	ls	\$1,000.00	\$1,000.00	\$1,013.33	\$1,013.33	\$2,013.33	15	\$15,200.00
Graffiti Removal	1	ls	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00		
<b>Subtotals</b>				<b>\$8,546.15</b>		<b>\$5,122.96</b>	<b>\$13,669.11</b>		
<b>Total Annual Costs:</b>							<b>\$13,669.11</b>		

**FIGURE 3 – 2018 ANNUAL BUDGETED MANAGEMENT OTHER COSTS**

<b>Task</b>	<b>Quantity</b>	<b>Units</b>	<b>Annual Rate</b>	<b>Annual Costs</b>	<b>Total Costs</b>
<b>Utilities and Administration</b>					
Water	742	HCF	\$6.00	\$4,452.22	\$4,452.22
District Management	1	ls	\$5,000.00	\$5,000.00	\$5,000.00
Engineer's Report	1	ls	\$3,500.00	\$3,500.00	\$3,500.00
<b>Subtotals</b>				<b>\$12,952.22</b>	<b>\$12,952.22</b>
<b>Total Annual Costs:</b>					<b>\$12,952.22</b>

**FISCAL YEAR 2018 ESTIMATE OF COST AND BUDGET**

**FIGURE 4 – 2018 COST ESTIMATE**

<b>City of Hayward - Cadence</b> <b>Landscaping and Lighting District No. 96-01, Benefit Zone No. 15</b> Estimate of cost Fiscal Year 2017-18				
				<i><b>Total Budget</b></i>
<b>Total Costs</b>				
Total Annual Landscaping Costs (From Table 1)				\$21,766
Total Annual Hardscape and Other Costs (From Table 2)				\$13,669
Total Annual Management Costs (From Table 3)				\$12,952
County Collection Fee (1.7%)				<u>\$823</u>
<b>Total Maintenance and Servicing and Related Expenditures</b>				<b>\$49,210</b>
<b>Total Maintenance and Servicing and Related Expenditures and Incidentals</b>				
(Net Amount to be Assessed: Annual Costs - Existing Funds)				\$49,210
<b>Budget Allocation to Property</b>				
	Number of	Total	Assessment	Total
	Units	SFE Units	per SFE	Assessment
	206	206	\$238.88	\$49,210

## **METHOD OF ASSESSMENT APPORTIONMENT**

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### **METHOD OF APPORTIONMENT**

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of Improvements and landscaping for the Assessment Area and the methodology used to apportion the total assessment to the properties within the Assessment Area.

The method used for apportioning the assessment is based upon the relative special benefits to be derived by the properties in the Assessment Area over and above general benefits conferred on real property or to the public at large. The assessment is apportioned to lots and parcels in proportion to the relative cost of the special benefits from the Improvements. Special benefit is calculated for each parcel in the Assessment Area 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 per property type
4. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes

The Assessment Area parcels proposed for annexation to Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1 consist of all Assessor Parcels within the boundaries as defined by the Assessment Diagram included within this Report and the Assessor Parcel Numbers listed within the included Assessment Roll. The method used for apportioning the assessments is based upon the proportional special benefits to be derived by the Assessment Area properties in Benefit Zone No. 15, over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements, and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

### **DISCUSSION OF BENEFIT**

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. With reference to the requirements for assessments, 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 codified in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

*"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

In this case, the recent the SVTA v. SCCOSA decision provides enhanced clarity to the definition of special benefits to properties from similar public improvements in three distinct areas:

- Proximity
- Expanded or improved access
- Views

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 advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements are a direct advantage and special benefit to property that is proximate to a park that is improved by an assessment:

*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).*

Proximity, improved access and views, in addition to the other special benefits listed herein further strengthen the basis of these assessments.

The following benefit categories summarize the types of special benefit to residential and other lots and parcels resulting from installation, maintenance and servicing of landscaping, irrigation, sidewalks, signs, lights and other park improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and studies which describe the types of special benefit received by property from maintenance and improvements such as those proposed by the City of Hayward for the formation and annexation of Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1. These types of special benefit are summarized as follows:

- A. Improved access to landscaped areas and other permanent public improvements such as the Public Park and perimeter landscaping.
- B. Proximity to improved landscaped areas and other permanent public improvements
- C. Improved Views.
- D. Extension of a property's outdoor areas and Landscaped Areas for properties within close proximity to the Improvements.
- E. Creation of individual lots for residential use that, in absence of the assessments, would not have been created.

The above benefit factors, when applied to property in the Assessment Area, specifically increase the utility and usefulness of the property within the Assessment Area. For example, the assessments will provide funding to improve and maintain the Public Park and the landscaping within the park. Such improved and well-maintained park amenities and landscaping enhances the overall quality, desirability, utility and safety of the properties.

#### **GENERAL VERSUS SPECIAL BENEFIT**

Article XIID, Section 4(a) of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. Property may be assessed to fund improvements to the extent of the special benefits conferred by the Improvements; but general benefits are not assessable. Accordingly, a separate estimate of the special and general benefit is given in this section.

Article XIID never defines the term “general benefit.” The definition of special benefit in Section 2(i) includes the statement that general enhancement of property value does not constitute special benefit. General benefit may be described as “an indirect, derivative advantage” resulting from the improvements. One infers from Article XIID that all benefit is either general or special.

In other words:

<b>Total Benefit</b>	<b>=</b>	<b>General Benefit</b>	<b>+</b>	<b>Special Benefit</b>
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There is no widely-accepted or statutory formula for quantifying the amount of any general benefit that is identified.

In this Report, the general benefit is first identified, generously estimated, and then budgeted so that it is funded, as required by Proposition 218, by sources other than the Cadence Assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service, which is funded primarily by the City. The proposed Assessment will fund Improvements “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

<b>General Benefit</b>	=	<b>Benefit to Real Property Outside the Assessment District</b>	+	<b>Benefit to Real Property Inside the Assessment District that is Indirect and Derivative</b>	+	<b>Benefit to the Public at Large</b>
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Special benefit, on the other hand, is defined in the California constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” A special benefit is conferred to a property if the property “receives a direct advantage from the improvement (e.g., proximity to setback landscaping).” In this proposed formation, as noted, properties in the Assessment Area have close and unique proximity, views of and access to the Improvements, and uniquely improved utility and desirability from the Improvements, and other properties and the public at large do not receive such benefits because they do not have proximity, access to or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special, and only minimal general benefit is conferred on property outside the Assessment Area or to the public at large.

In the 2010 *Beutz* case, the 4<sup>th</sup> Appellate Court rejected an assessment for parks in large part because the general benefits were not calculated and quantified. In its decision, the 4<sup>th</sup> Appellate Court suggests that the use of parks in an assessment district by people who live outside of the district likely is a general benefit. This Engineer’s Report includes a specific, quantified calculation of general benefits, as described below, that is based in part on such use by people outside of the Assessment Area. Moreover, the proportionality of the Assessments to the special benefits conferred on each parcel, based in large part on proximity, is established as well. Therefore, the Assessments and this Engineer’s Report are consistent with the *Beutz* decision.

### **CALCULATING GENERAL BENEFIT AND SPECIAL BENEFIT PAID FROM OTHER FUNDS**

In this section, the general benefit not paid from the assessment, which must be paid from other funds, are conservatively estimated and described, and then budgeted so that it is funded by sources other than this Assessment.

### **BENEFIT TO PROPERTY OUTSIDE THE PROPOSED ASSESSMENT AREA**

In summary, real property located within the boundaries of the Assessment Area distinctly and directly benefit from closer proximity, access and views of the Improvements funded by the Assessments, the creation of developable parcels, and from the extension of usable land area provided by the assessments. The Improvements are specifically designed to serve local properties in the Assessment Area, not other properties nor the public at large. The Assessment Area has been narrowly drawn to include those parcels that receive a direct advantage from the Improvements. The public at large and other properties outside the Assessment Area receive only limited benefits from the Improvements because they do not have proximity, good access or views of the Improvements. These are special benefits to property in the Assessment Area in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of specific proximate properties and make them more functional to use, safer and easier to access.

Properties within the proposed Assessment Area receive almost all of the special benefits from the Improvements, because properties in the Assessment Area enjoy unique and close proximity and access to the Improvements that are enjoyed less by other properties or the public at large. The Public Park and landscaping Improvements are specifically designed to benefit the properties in the Assessment Area.

Furthermore, there are multiple, proximate parks and other improvements outside of the Assessment Area, funded by other sources, that provide most of the park and landscaping benefits to nearby parcels that are outside of the Assessment Area.

For example:

- The large Tennyson Park on W Tennyson Rd and Huntwood Ave is 0.8 miles away from the Assessment Area and provides a wide variety of park improvements at a higher service level than the Public Park.
- The small Valle Vista Park on Valle Vista Avenue is only 0.2 miles away from the Assessment Area. While this park provides similar improvements, it also has a higher level of accessibility than the Public Park.
- Currently under construction, the new La Vista Park is just 0.3 miles east of the Assessment Area and provides a wide variety of park Improvements at a higher service level than the Public Park.

In other words, the Public Park and landscaping Improvements maintained by the proposed Assessments specially benefit the properties within the Assessment Area but other nearby improvements primarily benefit other proximate properties.

Nonetheless, there are certain properties that are outside the boundaries of the Assessment Area that may benefit from the improvements of the Public Park. This includes a 151-unit, low income and senior apartment development directly adjacent to the Assessment Area as well as 30 condo-units along Mariners Court. A total of 181 proximate units have been

identified that receive some special benefit from the proposed improvements including improved views, proximity and/or access, but most units do not receive extension of outdoor space and none receive special benefit of parcel creation. Since these adjacent units only receive 3 of the 5 major special benefits, a 60% factor is applied.

**TOTAL GENERAL BENEFIT TO PROPERTIES OUTSIDE OF THE DISTRICT = 28.1%**

**Assumptions:**

181 parcels outside and adjacent to the District

206 units in the Assessment Area

**Calculation**

General Benefit to Property outside the Improvement District=

$(181/(181+206)) * 60\% = 28.1\%$

Although it can reasonably be argued that Improvements inside, but near the Assessment Area Boundaries are offset by similar park and recreational improvements provided outside, we use the more generous approach of finding that 28.1% of the Improvements may be of benefit to property outside of the Assessment Area.

**BENEFIT TO PROPERTY INSIDE THE DISTRICT THAT IS INDIRECT AND DERIVATIVE**

The “indirect and derivative” benefit to property within the District is particularly difficult to calculate. A solid argument can be presented that all benefit within the Assessment District is special, because the Improvements are clearly “over and above” and “particular and distinct” when compared with the baseline level of service and the unique proximity, access and views of the Improvements enjoyed by benefiting properties in the Districts.

Nevertheless, the SVTA decision indicates there may be general benefit “conferred on real property located in the district.” A measure of the general benefits to property within the District is the percentage of land area within the District that is publicly owned, open to the public, and used for regional purposes such as major roads, rail lines, hospitals, and other regional facilities because such properties, while physically within the District, are used for regional purposes and could provide indirect benefits to the public at large. In this case, essentially 0% of the land area is used for such regional purposes.

**BENEFIT TO THE PUBLIC AT LARGE**

The general benefit to the public at large can be estimated by the proportionate amount of time that the Assessment Area’s park and recreational facilities are used and enjoyed by individuals who are not residents, employees, customers or property owners in the Assessment Area. Based on surveys and research conducted by SCI, in which visitors to similar parks; at various times of the day, evening, and week; were asked to look at a District map and to identify whether they lived or worked within the park’s District, less than 5% of the use of similar parks and recreation areas is by the public at large. When people outside the Assessment Area use parks, they diminish the availability of parks for people within the

Assessment Area. Therefore, another 5% of general benefits are allocated for people within the Assessment Area. Combining these two elements of general benefit, we find that 10% of the benefits from the Improvements are general benefits to the public at large.

**TOTAL GENERAL BENEFITS TO BE FINANCIALLY CONTRIBUTED FROM OTHER FUNDS IS 38.1%**

Using a sum of these three measures of general benefit, we find that approximately 38.1% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the Assessments.

General Benefit Paid From Other Funds =

$$\begin{aligned} & 28.1\% \text{ (Outside the district)} \\ + & 0.0\% \text{ (Inside the district - indirect and derivative)} \\ + & 10.0\% \text{ (Public at Large)} \\ = & 38.1\% \text{ (Total General Benefit and Special Benefit paid from other funds)} \end{aligned}$$

Although this analysis finds that 38.1% of the Assessment may provide general benefits and special benefit that would need to be paid from funds other than the assessment, the Assessment Engineer establishes a requirement for a minimum contribution from sources other than the Assessments rounded up to 40.0%. This additional allocation above the measure of general benefits will serve to provide additional coverage for any other general benefits.

**SOURCE OF FINANCIAL CONTRIBUTIONS FROM OTHER FUNDS TO SATISFY THE 40% REQUIREMENT**

The general benefit contribution is paid in part from other “in-kind” contributions from the City in the form of infrastructure critical to the continued maintenance of the Assessment Area Improvements, as described below. Also, general benefit contributions come from the “annuity” value of the improvements that were constructed by the developer.

The City of Hayward owns, maintains, rehabilitates and replaces the curb and gutter along the border of the Assessment Area. This curb and gutter serves to support, contain, retain, manage irrigation flow and growth, and provide a boundary for the Improvements. The contribution from the City of Hayward toward general benefit from the maintenance, rehabilitation, and replacement of the curb and gutter is conservatively estimated to be 10%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Assessment Area were required to construct and maintain the local curb and gutter, the budget would increase by at least 10%.

The City of Hayward owns and maintains a storm drainage system along the border of the Assessment Area. This system serves to prevent flooding and associated damage to the Improvements, and manage urban runoff including local pollutants loading from the Improvements. The contribution from the City of Hayward toward general benefit from the

maintenance, rehabilitation, and replacement of the local storm drainage system is conservatively estimated to be 10%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Assessment Area were required to construct and maintain the local storm drainage system, the budget would increase by at least 10%.

The City of Hayward owns and maintains local public streets throughout the Assessment Area. These public streets provide access to the Improvements for its enjoyment as well as efficient maintenance. The contribution from the City of Hayward toward general benefit from the maintenance, rehabilitation, and replacement of the local public streets is conservatively estimated to be 10%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Assessment Area were required to construct and maintain the local public streets, the budget would increase by at least 10%.

The value of the initial Improvements constructed by the Developer can be quantified and monetized as an annuity to be amortized. Since the initial Improvements were performed and paid for by non-assessment funds, this “annuity” can be used to offset general benefit costs, and is conservatively estimated to contribute 20%. In others words, if the Assessment Area were required to construct all the Improvements, the annual budget would increase by at least 20%.

#### Source of Financial Contributions from Other Funds to Satisfy 40% Requirement

10.0% (Curb and gutter)  
+ 10.0% (Storm drainage system)  
+ 10.0% (Public roads)  
+ 20.0% (Amortized value of initial construction)  
  
= 50.0% (Total General Benefit paid from other funds)

In other words, the formation requires 40% contribution to offset the general benefits conferred by the Improvements, and there is a 50% contribution from City of Hayward supporting local infrastructure, along with the amortized value of initial construction. This 50% contribution more than satisfies the general benefit requirements.

### ZONES OF BENEFIT

The boundaries of the Assessment Area have been carefully drawn to only include the properties in Assessment Area that are proximate to the proposed Improvements and that would materially benefit from the Improvements. Certain other properties surrounding and outside the Assessment Area were excluded from the proposed Assessment Area because these properties are generally less proximate to the Improvements and/or they do not enjoy the same access.

Within the Assessment Area, zones of benefit are not justified or needed because the Improvements are provided relatively evenly across the entire area and for the one residential parcel. The multi-family residential structure has limited access points so the proximity to the improvements is relatively uniform for all units. If the parcel is sub-divided in the future, an analysis of potential zones of benefit may be appropriate. At this time, as a single parcel development, zones of benefit are not justified.

### **ASSESSMENT APPORTIONMENT**

The assessments are apportioned among all lots and parcels within the Assessment Area on the basis of Single Family Equivalent (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 an 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 equal to one Single Family Equivalent benefit factor.

The Cadence property is a multi-family residential development project consisting of 206 units. Each unit receives similar benefit from the proposed improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all residential parcels is on an equivalent dwelling unit basis.

### **RESIDENTIAL PROPERTIES**

All improved residential properties that represent a single residential dwelling units are assigned 1.0 SFE.

### **VACANT RESIDENTIAL**

It is the Engineer's determination that approximately 30% of the benefit from the Improvements flows to the underlying land, and approximately 70% of the benefit flows to the improvements made to each parcel. Therefore, vacant residential land is assigned 0.30 SFE per parcel, until the parcel is improved.

### **OTHER PROPERTIES**

There are no other property uses (other than vacant and residential) planned for the Assessment Area. If properties are developed in the future with other property uses, (i.e. commercial, agriculture, etc.), the engineer will individually calculate the associated special benefit for those properties at that time.

### **INITIATION OF ASSESSMENT ON PARCELS**

Full benefit units will be assigned to all mapped and unmapped properties in the Assessment Area after the Improvements are installed, and costs are incurred by the Assessment Area.



**ASSESSMENT**

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**WHEREAS**, the City Council of the City of Hayward, County of Alameda, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively “the Act”), adopted its Resolution Initiating Proceedings for the formation and annexation of Cadence property to Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1;

**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 Area and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment Area, to which Resolution and the description of said 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 City Council of the City of Hayward, hereby make the following assessments to cover the portion of the estimated cost of Improvements, and the costs and expenses incidental thereto to be paid by the Assessment Area.

**WHEREAS**, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the Assessment Area and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment Area;

**NOW, THEREFORE**, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of the City of Hayward, County of Alameda, California, hereby make the following assessment to cover the portion of the estimated cost of the Improvements, and the costs and expenses incidental thereto to be paid by the Assessment Area.

The amount to be paid for Improvements and expenses incidental thereto, that are to be paid by the formation of Benefit Zone No. 15 of the Landscaping and Lighting Assessment District No. 96-1, for the Fiscal Year 2018, are detailed below.

**FIGURE 5 – SUMMARY COST ESTIMATE FOR BENEFIT ZONE NO. 15 FOR FISCAL YEAR 2018**

<b>Budget Item</b>	<b>Cost</b>
Total Annual Costs	\$48,387
Incidentals	\$823
<b>Total Budget</b>	<b>\$49,210</b>

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Cadence Assessment Area. The distinctive number of each parcel or lot of land in said property proposed for formation into existing Landscaping and Lighting Assessment District No. 96-1, 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 the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Cadence Assessment Area, in accordance with the special benefits to be received by each parcel or lot from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within Cadence Assessment Area, in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

The assessments are subject to an annual adjustment tied to the Consumer Price Index for the San Francisco Bay Area as of December of each succeeding year, with the maximum annual adjustment not to exceed 3%. In the event that the annual change in the CPI exceeds 3%, any percentage change in excess of 3% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 3%.

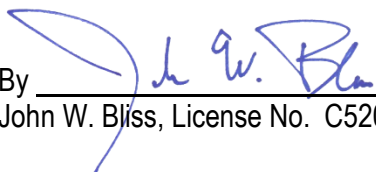
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2018. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2018 for each parcel or lot of land within said Landscaping and Lighting Assessment District No. 96-1.

Dated: December 19, 2016



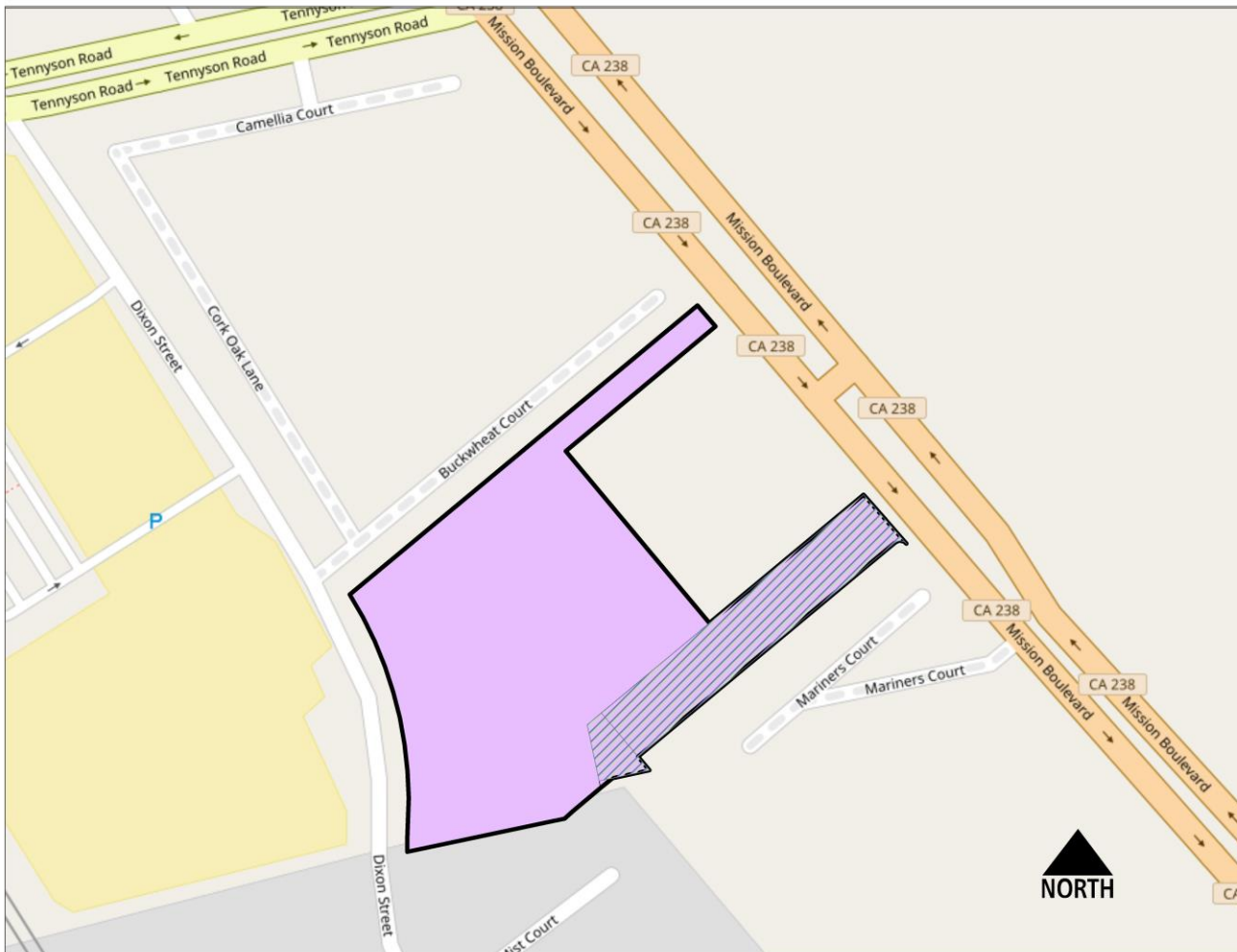
Engineer of Work

By   
John W. Bliss, License No. C52091

## **ASSESSMENT DIAGRAM**

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The boundaries of the Cadence Assessment Area proposed to be included in Benefit Zone No. 15 of Landscaping and Lighting Assessment District No. 96-1 is displayed on the following Assessment Diagram.



Note: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF ALAMEDA FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN.

SCI Consulting Group  
4745 Mangels Boulevard  
Fairfield, CA 94534

FILED IN THE OFFICE OF THE CLERK OF THE COUNCIL, CITY OF HAYWARD, COUNTY OF ALAMEDA, CALIFORNIA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
CLERK OF THE COUNCIL, CITY OF HAYWARD

RECORDED IN THE OFFICE OF THE CLERK OF THE COUNCIL, CITY OF HAYWARD, COUNTY OF ALAMEDA, CALIFORNIA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
CLERK OF THE COUNCIL, CITY OF HAYWARD

AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY COUNCIL, CITY OF HAYWARD, COUNTY OF SOLANO, CALIFORNIA, ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017 FOR FISCAL YEAR 2017-18 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF ALAMEDA ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

\_\_\_\_\_  
CLERK OF THE COUNCIL, CITY OF HAYWARD

-  Benefit Zone No.15
-  Public Park

**CITY OF HAYWARD  
LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT 96-1  
BENEFIT ZONE NO. 15  
ASSESSMENT DIAGRAM**

## ASSESSMENT ROLL

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An Assessment Roll (a listing of all parcels assessed within the Assessment Area and the amount of the assessment) is shown below.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.

Parcel	Owner	Developed Property Assessment
078C-0441-001-23	City of Hayward	\$0.00
078C-0441-001-32	City of Hayward	\$0.00
078C-0801-001-00	AMCAL HAYWARD LLC	\$49,209.62
	Totals	\$49,209.62

Note: The assessments listed above indicate amounts *at buildout* and are based on the developed property rate of \$238.88 per Single Family Equivalent (SFE).

This is the maximum, proposed rates that shall be levied for all proposed or actual dwelling units on improved and unimproved property in the Assessment District. Such assessments shall be levied for all proposed or actual dwelling units and unimproved property in the Assessment Districts, as increased annually by the CPI adjustment.