

**THE BOARD OF DIRECTORS OF HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT**

RESOLUTION NO. 22-03

**RESOLUTION CONFIRMING ASSESSMENT AND AUTHORIZING THE LEVY AND
COLLECTION OF THE ASSESSMENT FOR THE HAYWARD SOMI DEVELOPMENT WITHIN
THE HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT**

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

WHEREAS, on October 26, 2021, the GHAD Board accepted a petition from Hayward SoMi, LLC requesting annexation of the Hayward SoMi development into the GHAD; and

WHEREAS, on November 16, 2021, the GHAD Board held a public hearing on the proposed annexation and Hayward SoMi Plan of Control ("Plan of Control") and thereafter adopted Resolution 21-03 approving the annexation and 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 189 combined townhome and condominium units, at a FY 2021/22 level of \$567.00 per townhome unit and \$454.00 per condominium 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 November 16, 2021, 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 Hayward SoMi Development portion of the GHAD, the estimated budget, the total assessment that will be chargeable to the Hayward SoMi Development portion of the GHAD, the proposed estimated assessment to be levied against each parcel of property within the Hayward SoMi Development portion of the GHAD, and a description of the method used in formulating the estimated assessments; and

WHEREAS, the property within the Hayward SoMi Development portion of the GHAD is identified in Exhibit A in attached Attachment 1 and each parcel is proposed to be assessed.

WHEREAS, on January 18, 2022, the GHAD Board adopted Resolution 22-01 declaring its

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intention to order an assessment on the Hayward SoMi Development and fixed a public hearing for March 15, 2022, to consider the assessment and any protest against the assessment; and

WHEREAS, pursuant to Resolution 2022-01 the GHAD Board declared its intention, consistent with the requirements of Article XIII(D) of the California Constitution, to order that the costs and expenses of maintaining and operating the GHAD improvements acquired or constructed pursuant to Public Resources Code section 26500 *et seq.* be assessed against those parcels in the Hayward SoMi Development, as identified on the Boundary Map (Exhibit A to the Engineer's Report), that are specially benefited by the GHAD; and

WHEREAS, Resolution No. 2022-01 declared the GHAD Board's intention to assess against those parcels in the Hayward SoMi Development and as shown on the Boundary Map, all or part of the amount set forth in Engineer's Report commencing with the following fiscal year given there is no majority protest to the proposed assessment; and

WHEREAS, this Resolution No. 2022-03 directs the tabulation of the ballots and presentation of the ballots received from record owners to the GHAD Board at the hearing. This Resolution states that the GHAD Board shall then consider all protests against the proposed assessment and certify the tabulation of the ballots. This Resolution states that, in tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation on the affected property. This Resolution states that the GHAD Board shall not impose the assessment if there is a majority protest and if there is no majority protest, the GHAD Board shall authorize the assessment.

The Board of Directors of the GHAD HEREBY RESOLVES THAT:

1. That notice of the public hearing described above in accordance with Public Resources Code sections 26651 through 26653 and Article XIII(D), Section 4 of the California Constitution was provided.
2. The public hearing was held before the GHAD Board on March 15, 2022, at 7:00 p.m. at Hayward City Hall, 777 B Street, Hayward, California. At the hearing, the GHAD Board heard and considered any and all protests to the proposed assessment. After the public hearing was closed, the sealed ballot was canvassed and tabulated.
3. Based upon the tabulation of the ballot, the GHAD Board finds that there is no majority protest. Therefore, the GHAD Board is authorized to levy the proposed assessment pursuant to Public Resources Code section 26653 and Article XIII(D), Section 4 of the California Constitution on property within the Hayward SoMi Development.
4. The GHAD Board further confirms the assessment at a FY 2021/2022 level of \$567.00 per townhome unit and \$454.00 per condominium unit, as set forth in the Engineer's Report.
5. The GHAD Board further orders that the assessment amount in the Engineer's Report (with an adjustment annually to reflect the percentage change in the San Francisco-Oakland-Hayward Consumers Price Index for All Urban Consumers) shall be assessed against each residential unit in the Hayward SoMi Development, which shall be levied at the beginning of the following fiscal year given there is no majority protest to the proposed assessment for each parcel and the assessment will continue to be levied in perpetuity.

6. The GHAD Board further orders that the assessment shall be levied and collected in the following manner:

(a) The GHAD Manager shall cause to be recorded a Notice of Assessment, in substantially the form as attached hereto as Attachment 2, as provided for in Section 3114 of the California Streets and Highway Code, whereupon the assessment shall be imposed as a lien upon the property.

(b) Thereafter, the assessment shall be payable at the same time and in the same manner as general taxes on real property within the Hayward SoMi Development are payable.

(c) All funds generated by the assessment, and all returns earned on the assessment, shall be segregated and deposited in the existing Hayward GHAD account for the exclusive benefit of the Hayward GHAD, as directed by the GHAD Treasurer. Said funds shall not be deposited or credited to the City or any of its departments, including the City Finance and Management agency or the City Treasury.

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

HAYWARD, CALIFORNIA, March 15, 2022

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Attest:_____

Attachments: 1 – Engineer’s Report
2 – Notice of Assessment