

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

RESOLUTION NO. 19-06

**RESOLUTION CONFIRMING ASSESSMENT AND AUTHORIZING THE LEVY AND
COLLECTION OF THE ASSESSMENT FOR THE ERSTED PROJECT 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 February 5, 2019, the GHAD Board accepted a petition from Hayward Tennyson Land, LLC requesting annexation of Ersted Project development into the GHAD; and

WHEREAS, on February 26, 2019, the GHAD Board held a public hearing on the proposed annexation and Ersted Project 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 Project portion of the GHAD, the estimated budget, the total assessment that will be chargeable to the Ersted Project portion of the GHAD, the proposed estimated assessment to be levied against each parcel of property within the Ersted Project portion of the GHAD, and a description of the method used in formulating the estimated assessments; and

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

WHEREAS, on March 26, 2019, the GHAD Board adopted Resolution 19-04 declaring its intention to order an assessment on the Ersted Project and fixed a public hearing for May 7, 020866.0002\5443994.1 Page 1 of 3

2019, to consider the assessment and any protest against the assessment; and

WHEREAS, pursuant to Resolution 2019-04 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 Ersted Project, as identified on the Boundary Map (Exhibit A to the Engineer's Report), that are specially benefited by the GHAD; and

WHEREAS, Resolution No. 2019-04 declared the GHAD Board's intention to assess against those parcels in the Ersted Project 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. 2019-06 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 May 7, 2019, 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 Ersted Project.
4. The GHAD Board further confirms the assessment at a FY 2018/2019 level of \$932.00 per single-residential 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 parcel in the Ersted Project, 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 Attachment 2, as provided for in Section 3114 of the California Streets and Highway Code, whereupon the assessment shall be attached 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 Ersted Project 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, May 7, 2019

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Attest: _____

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



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.



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.

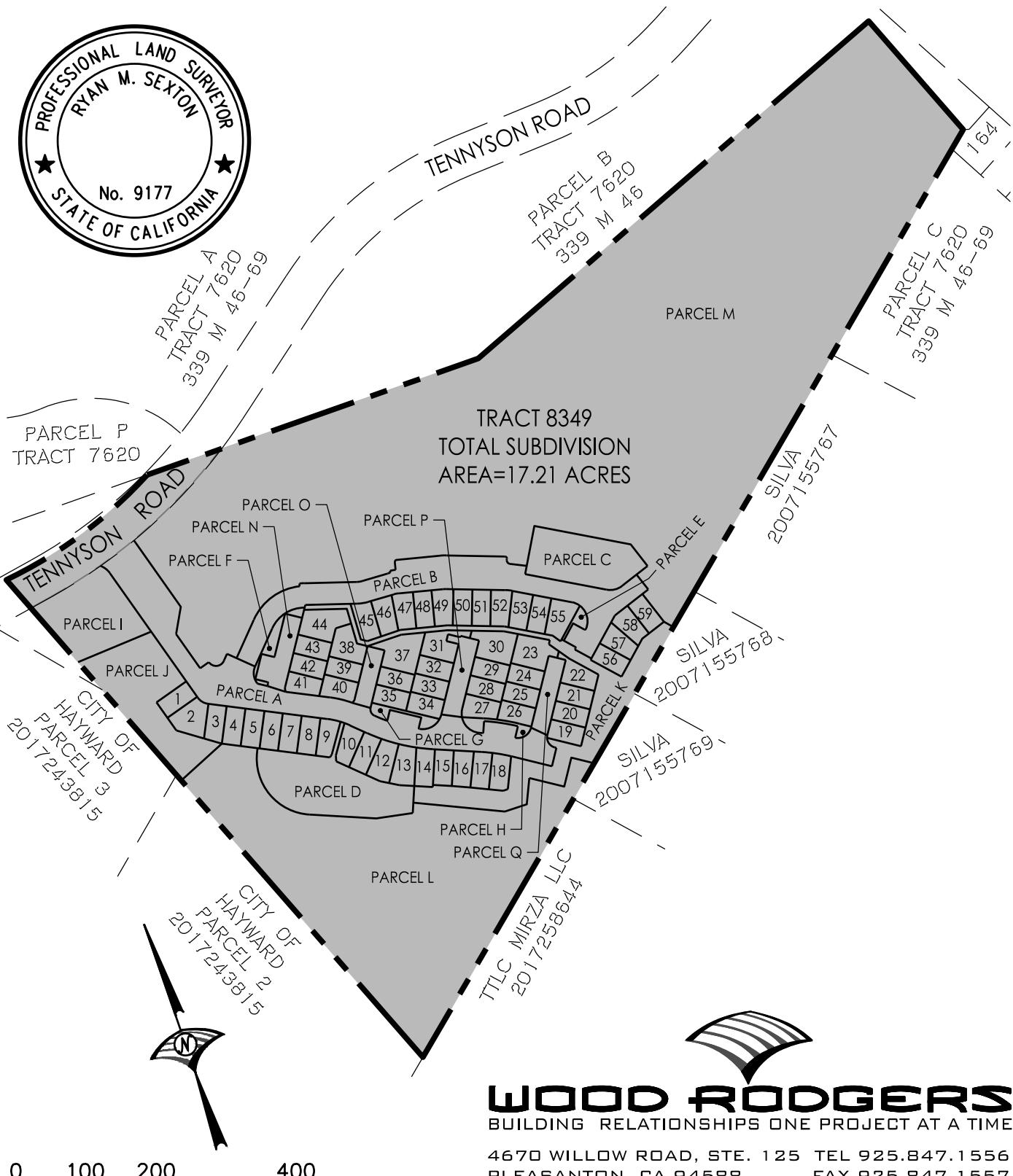
RYAN M. SEXTON / PLS 9177
DECEMBER 13, 2018



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



A horizontal scale bar with tick marks at 0, 100, 200, and 400.

SCALE: 1" = 200'

DEC 13, 2018

3121020

SHEET 1 OF 2



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>



NOTICE OF ASSESSMENT

Pursuant to the requirements of Section 3114 of the Streets and Highways Code, the undersigned Clerk of the Hayward Geologic Hazard Abatement District State of California, hereby gives notice that a diagram and assessment were recorded in the office of the County Recorder of Alameda County as provided for in said section, more particularly described on that certain assessment diagram filed in accordance with the section in Book _____ of Maps of Assessments and Community Facilities Districts at Page _____ in the Office of the County Recorder of the County of Alameda and relating to the following described real property (commonly known as Ersted Project):

The land referred to is situated in the County of Alameda, City of Hayward, State of California, and is described as follows:

Real Property situate in the City of Hayward, County of Alameda, and State of California; and being all of Lots 1 thru 59 and all Parcels A thru Q as created by that certain map entitled "Tract Map 8439" and filed on _____ and recorded in Book _____ of Maps at pages _____ through _____, Official Records of said County.

Notice is further given that upon the recording of this notice in the Office of the County Recorder, the several assessments assessed on the lots, pieces and parcels shown on said filed assessment diagram shall become a lien upon the lots or portions of lots assessed respectively.

Reference is made to the assessment diagram and assessment roll recorded in the office of County Recorder of Alameda

County.

Dated: _____

Owner Notification:

ATTEST: