

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

RESOLUTION APPROVING THE ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF ASSESSMENT FOR FISCAL YEAR 2017 FOR THE FORMATION OF BENEFIT ZONE NO. 14 OF THE CITY OF HAYWARD LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 96-1 FOR THE LA VISTA PROPERTY

WHEREAS, the City of Hayward provides for the maintenance and improvement of street lighting, parks, setback landscaping, and detention basins through the City's Landscaping and Lighting Assessment Districts; and

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

WHEREAS, the formation of new Benefit Zone No. 14 of the District, is a condition of development approval for the property known as the La Vista development (the "Assessment Area"); and

WHEREAS, this proposed benefit zone formation would provide direct and special benefits to the Assessment Area by providing for the maintenance and improvement of street lighting, setback landscaping, irrigation, paved trails and bioswales; and

WHEREAS, the procedures for the proposed benefit zone formation will provide owner(s) of the Assessment Area with the opportunity to submit ballots for the proposed formation and assessment of levies that would fund the maintenance for services and improvements; and

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

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

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

WHEREAS, on June 14, 2016, at the hour of 7:00 PM, at the City Council Chambers of the City of Hayward, 777 B Street, Hayward, California, 94541, the public hearing was duly and regularly held as noticed, and all persons interested and desiring to be heard were

given an opportunity to speak and be heard, and all matters and things pertaining to the benefit zone formation and levies were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly considered; and

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

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

1. The weighted assessment ballot submitted in favor of the formation of Benefit Zone No. 14 of the City of Hayward Landscaping and Lighting Assessment District 96-1 for the La Vista Property exceeded those weighted ballots submitted in opposition to the formation and assessments.

2. The property benefitted by the maintenance and service of the improvements and assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by maps thereof filed in the office of the Council, which maps are made a part hereof by reference thereto.

3. The Engineer's Report as a whole and each part thereof, to include:

- (a) The Engineer's estimate of the itemized and total costs and expenses of maintaining the improvements and of the incidental expenses in connection therewith; and
- (b) The diagram showing the Assessment Area, plans and specifications for the improvements to be maintained and the boundaries and dimensions of the respective lots and parcels of land within the District; and
- (c) The assessment of the total amount of the costs and expenses of the proposed maintenance of the improvements upon the several lots and parcels of land in the Assessment Area in proportion to the estimated special benefits to be received by such lots and parcels, respectively, from the maintenance, and of the expenses incidental thereto.

4. Final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimates of the costs and expenses, the diagram and the assessments, as contained in the report as hereinabove determined and ordered, is intended to and shall refer and apply to the report, or any portion thereof as amended, modified, or revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this Council.

5. The formation of Benefit Zone No. 14 of the City of Hayward Landscaping and Lighting Assessment District 96-1 is hereby approved.

6. The assessments to pay the costs and expenses for the maintenance of the improvements for FY 2017 are hereby levied.

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

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

9. Immediately upon the adoption of this resolution, but in no event later than the second Monday in August following such adoption for the fiscal year in which the assessments will initially be levied, the City shall file a certified copy of the assessments and a certified copy of this resolution with the Auditor of the County of Alameda. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment roll. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to Benefit Zone No. 14 of the Landscaping and Lighting Assessment District 96-1.

10. The monies representing assessments collected by the County shall be deposited in a City fund or account specific to Zone 14 of Landscaping and Lighting District 96-1. Monies in the improvement funds shall be expended only for the maintenance, servicing, construction or installation of the improvements.

IN COUNCIL, HAYWARD, CALIFORNIA

ADOPTED BY THE FOLLOWING VOTE

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: COUNCIL MEMBERS:

ATTEST:

Miriam Lens, City Clerk, City of Hayward