

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

A RESOLUTION PRELIMINARILY APPROVING THE FINAL ENGINEER'S REPORT AND ORDERING THE LEVY OF ASSESSMENTS FOR FISCAL YEAR 2024 FOR THE OLD HIGHLANDS AREA ROAD IMPROVEMENT ASSESSMENT DISTRICT

WHEREAS, on February 2, 2021, by Resolution No. 21-020, the City Council of the City of Hayward (the "Council") authorized the levy of assessments for the Old Highlands Area Road Improvement Assessment District (the "Assessment") pursuant to the provisions of California Streets and Highways Code §§ 1160 – 1197 and 1813, known as the Permanent Road Division Law; and

WHEREAS, the purpose of the special assessments against the properties in the Old Highlands area to fund a pavement rehabilitation project in the area, an area map of which is attached to the staff report for this item and incorporated herein; and

WHEREAS, the Council is authorized, pursuant to the authority provided in California Streets and Highways Code §§ 1160 – 1197 and 1813 and Article XIID of the California Constitution, to levy assessments to finance construction, improvement, and maintenance of the public roadways within the proposed district; and

WHEREAS, the Assessment was authorized by an assessment ballot proceeding conducted in 2021 and approved by 78.55% of the weighted ballots returned by property owners, and such assessments were levied by the Council by Resolution No. 21-020 passed on February 2, 2021; and

WHEREAS, pursuant to Government Code section 53753.5, the notice, protest/ballot, and public hearing requirements of Prop. 218 do not apply in subsequent fiscal years after creation of an assessment district if there is no increase in the amount of the assessment beyond what was previously adopted by the local agency; and

WHEREAS, the Fiscal Year 2024 assessments do not exceed the maximum assessment levels previously approved by the City Council during the formation of the Assessment District.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Hayward as follows:

1. The above recitals are true and correct.
2. **Preliminary approval of Final Engineer's Report.** SCI Consulting Group, the Engineer of Work, has prepared an Engineer's Report in accordance with Article XIID of the California Constitution and Government Code section 53750, 54710 et seq. (the "Report"). The Report has been made, filed with the City Clerk, and duly considered by the Council and is hereby deemed sufficient and preliminarily approved. The Report shall stand as the Engineer's Report for all subsequent proceedings under and pursuant to the foregoing resolution and incorporated herein by reference, including, but not limited to, the following:
 - A. The description of the Services to be funded with Assessment proceeds;
 - B. The estimate of the annual cost of such Services;
 - C. The description of the assessable parcels of land within the District and subject to the new Assessment;
 - D. The description of the proportionate special and general benefits conferred on property by the proposed Assessment;
 - E. The description of the boundaries of the Assessment District;
 - F. The number of acres contained within the Assessment District and the assessed valuation of such acreage according to the last equalized assessment roll of the County;
 - G. The value of improvements on real estate and personal property within the Assessment District according to the last equalized assessment roll of the County;
 - H. The number of inhabitants in the Assessment District, as nearly as can be ascertained; and
 - I. The specification of the amount to be assessed upon various types of assessable land to fund the cost of the Services.
3. **Findings of Special Benefit.** Based on the oral and documentary evidence offered and received, including the Preliminary Engineer's Report, the City Council expressly finds and determines:

- A. That each of the parcels in the Assessment District will be specially benefitted by the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the parcel; and
 - B. That there is substantial evidence to support this finding and determination as to special benefit; and
 - C. That no assessment imposed on any parcel exceeds the reasonable cost of the proportional special benefit conferred on that parcel.
4. **Maximum Assessment Rate.** The public interest, convenience, and necessity require that a levy on each lot of parcels in the Assessment District be no more than the SIX HUNDRED AND SIXTY FIVE DOLLARS AND FIFTY CENTS (\$665.50) per single family home and other rates for other property uses and attributes as described in the Report.
 5. **Levy of Assessments.** The adoption of this Resolution constitutes the levy of the Assessments for Fiscal Year 2024 at the rates and upon the parcels described in this Resolution, in the Final Engineer's Report including the Assessment Roll, all incorporated herein by reference. The City of Hayward Director of Finance is hereby authorized and directed to order the collection of the Assessments stated herein.
 6. **Duration of Assessment.** The assessments are to expire after 20 years. The assessment was first levied starting with the 2022 fiscal year and cease to be levied after the 2041 fiscal year, unless renewed and extended by Proposition 218-compliant balloting.
 7. Immediately upon the adoption of this Resolution, the City Clerk shall file a certified copy of this Resolution, and Engineer's Report with the Treasurer-Tax Collector of the County of Alameda. 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 of Alameda, the net amount of the assessments, after deduction of any compensation due to the county of collection, shall be paid to the City of Hayward and received by the Director of Finance.
 8. Upon receipt of monies representing assessments collected by the County, the Director of Finance of the City of Hayward shall deposit the monies in the City Treasury to the credit of the Assessment District. Monies deposited to the credit of the Assessment District shall be expended only for the services and improvements set forth in the Final Engineer's Report, which is incorporated by reference herein.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward