

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

RESOLUTION NO. 22-01

**RESOLUTION DECLARING THE HAYWARD GEOLOGIC HAZARD ABATEMENT
DISTRICT'S INTENT TO ORDER THE ASSESSMENT SET FORTH IN THE
ENGINEER'S REPORT DATED JANUARY 6, 2022 AND SET A PUBLIC HEARING
FOR MARCH 15, 2022 TO CONSIDER THE PROPOSED ASSESSMENT AND ANY
OBJECTIONS THERETO.**

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

WHEREAS, on October 26, 2021, the GHAD Board accepted a petition from Hayward SoMi, LLC requesting annexation of 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 Development Plan of Control ("Plan of Control") and thereafter adopted Resolution 21-03 approving the annexation and adopting 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 residential units at a Fiscal Year 2021/22 level of \$567.00 per each townhome unit and \$454.00 per each 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 being 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 on the map attached as Attachment 2 and each parcel is proposed to be assessed.

The Board of Directors of the GHAD HEREBY RESOLVES THAT:

1. The GHAD Board declares its intention, consistent with the requirements of Article XIII (D) of the California Constitution, Public Resources Code sections 26650 *et seq.*, Government Code section 53750, and Elections Code section 4000, to order that the cost and expense of maintaining and operating any GHAD improvements in the Hayward SoMi Development acquired or constructed pursuant to Public Resources Code sections 26500 *et seq.* shall be assessed against the property within the Hayward SoMi Development portion of the GHAD, which is benefited by the properties in this portion of the GHAD.
2. The GHAD Board shall not order this assessment if a majority protest exists within the Hayward SoMi Development portion of the GHAD as defined in Section 4(e) of Article XIII(D) of the California Constitution.
3. Each of the parcels identified in Attachment 2 will receive a particular and distinct special benefit in the form of GHAD facilities and services that are over and above the general benefits received by the general public. Specifically, the GHAD's maintenance responsibilities include prevention and abatement of geologic hazards such as landslides and slope erosion within the Hayward SoMi Development portion of the GHAD. The GHAD will have responsibilities that include (a) maintenance of slopes, retaining walls, drainage ditches, and storm drain systems, (b) vegetation control for fire suppression, and (c) establishment of a reserve to fund, prevent, mitigate, abate or control geologic hazards within this area. These special benefits are described in detail in the Plan of Control.
4. Whenever a residential building permit is issued for any of the 189 residential units identified in Attachment 2, that lot will be assessed based on unit type within the development described in the attached Engineer's Report. The annual assessment amount for each residential unit was calculated by dividing the annual Hayward SoMi Development portion of the GHAD budget by the number of residential units planned within that portion of the GHAD boundaries and applying the assessment ratio for each unit type provided in the Engineer's Report.
5. The GHAD Board has reviewed and considered the attached Engineer's Report for the Hayward SoMi Development. The special benefit derived from the GHAD by each parcel is proportionate to the entire cost of the Hayward SoMi Development portion of the GHAD, and the amount of the assessment is proportional to, and no greater than, the benefits

conferred on each parcel. The assessment does not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

6. The GHAD Board directs the GHAD Manager to mail or cause to be mailed, no later than three (3) days after adoption of this Resolution, the “Notice of Adoption of Resolution and Notice of Assessment” of the Public Hearing, in substantially the same form as in Attachment 3 (“Notice”) to the record owners of each parcel upon which the assessment will be imposed. The sealable Ballot, attached hereto as Attachment 4, and the GHAD Engineer’s Report, shall be attached to the Notice.

7. The GHAD Board will conduct a public hearing on March 15, 2022 at the chambers of the Hayward City Council at 777 B Street, Hayward, CA 94541 at 7 p.m. or thereafter. The GHAD Manager shall deliver all sealed ballots received from record owners of parcels within the Hayward SoMi Development portion of the GHAD to the GHAD Clerk at the public hearing. The ballots shall remain sealed until they are tabulated. The GHAD Board shall permit a change, withdrawal, or submittal of a ballot at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing. The GHAD Board shall consider all protests against the proposed assessment. At the GHAD Board hearing, the GHAD Clerk, or some other impartial person not having a vested interest in the outcome of the proposed assessment, shall tabulate the ballots, and shall weight the ballots according to the proportional financial obligation of the affected property. The GHAD Board shall not impose the assessment if there is a majority protest as that term is defined by Section 4(e) of Article XIII (D) of the California Constitution. If there is no majority protest, the GHAD Board shall authorize the assessment. Following the public hearing, the GHAD Board shall consider the adoption of the canvas of votes for the GHAD.

8. Upon authorization of the assessment, the GHAD Board shall levy the authorized assessment on the 189 residential units the first fiscal year following issuance of a residential building permit for each of those parcels on which the residences are located.

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

HAYWARD, CALIFORNIA, January 18, 2022

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Attachment 1 – Engineer’s Report

Attachment 2 – Legal Description and Plat

Attachment 3 – Notice of Adoption of Resolution and Notice of Assessment

Attachment 4 – Ballot