

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-____

Introduced by Council Member _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
ESTABLISHING THE OLD HIGHLANDS AREA ROAD IMPROVEMENT
ASSESSMENT DISTRICT, APPROVING THE FINAL ENGINEER'S REPORT, AND
ORDERING LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR
2022

WHEREAS, the area known as Old Highlands was created by a subdivision map approved by the County of Alameda and recorded in 1914; and

WHEREAS, the Old Highlands area was annexed to the City of Hayward on or about December 3, 1963; and

WHEREAS, the 6.12 miles of streets in the Old Highlands area were not brought up to City standards upon annexation and have not been maintained, with the exception of emergency repairs; and

WHEREAS, the Old Highlands Homeowners Association (OHHA) Board and property owners have agreed to the creation of an assessment district and imposition of 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, California Streets and Highways Code §§ 1160 – 1197 and 1813, known as the Permanent Road Division Law, authorizes formation of a road improvement assessment district, and imposition of assessments to finance construction, improvement and maintenance of any public roadway; and

WHEREAS, the City of Hayward ("City") initiated proceedings for the formation of a road improvement assessment district for the Old Highlands area pursuant to the provisions of Streets and Highways Code §§1160 – 1197 and 1813, and Article XIID of the California Constitution, to repave public roadways within the proposed district; and

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution; and

WHEREAS, Articles XIII C and XIII D of the California Constitution and implementing statutes impose certain procedural and substantive requirements relating to assessments (as defined); and

WHEREAS, a Final Engineer's Report (the "Report") has been prepared by SCI Consulting Group (the "Engineer of Work") and submitted to the City Council (the "Council"), in which a new assessment is proposed to fund the cost to repave public roadways within the proposed district boundaries; and

WHEREAS, this proposed assessment shall be described as the "Old Highlands Area Road Improvement Assessment" (hereinafter the "Assessment") and the proposed district shall be known as the "Old Highlands Area Road Improvement Assessment District" (hereinafter the "Assessment District"); and

WHEREAS, the proposed Assessment District contains approximately 124.77 acres of privately and publicly owned parcels as well as approximately 6.2 acres of roadway. Based upon the last equalized assessment roll of the county, the total assessed land value of the parcels within the Assessment District is \$51,958,296 and the total assessed value of the improvements and personal property within the proposed Assessment District is \$96,854,059. There are approximately 536 inhabitants living in the proposed Assessment District; and

WHEREAS, Resolution No. 20-216 was adopted by the City Council on December 8, 2020 which initiated proceedings pursuant to Streets and Highways Code §§1160 – 1197 and 1813, and Article XIII D of the California Constitution, and set a date and time for Prop. 218 hearing at 7:00 p.m. on February 2, 2021; and

WHEREAS, in compliance with the requirements of Article XIII D of the California Constitution and Government Code section 53753, ballots were mailed to all record owners of property within the proposed Assessment District, including a copy of the Engineer's Report and a notice of the February 2, 2021 Public Hearing; and

WHEREAS, notice of the public hearing was published in a newspaper of general circulation in compliance with Government Code section 6061 and Streets and Highways Code section 1162.5; and

WHEREAS, on February 2, 2021 at 7:00 PM or as soon thereafter as was practicable, the City Council held a public hearing, at which it heard and considered oral and written testimony from all interested persons; and

WHEREAS, following the public input portion of the Public Hearing, all assessment ballots that had been returned to the City were tabulated pursuant to the procedures set forth in Resolution 20-217, which was adopted by the City Council on December 8, 2020; and

WHEREAS, based on the tabulation, the City Council determined that a majority protest, as defined by Article XIII D, Section 4(e) of the California Constitution and Section 53753 of the California Government Code does not exist with respect to the proposed Assessment.

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. **Formation of Assessment District.** Pursuant to Streets and Highways Code §§1160 – 1197 and 1813, and Article XIID of the California Constitution, the Old Highlands Area Road Improvement Assessment District is hereby established.
3. **Confirmation of Final Engineer's Report.** SCI Consulting Group, the Engineer of Work, has prepared a Final 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 approved and confirmed 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.

4. **Findings of Special Benefit.** Based on the oral and documentary evidence offered and received, including the Final 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.
5. **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 Final Engineer's Report.
6. **Levy of Assessments.** The adoption of this Resolution constitutes the levy of the Assessments for Fiscal Year 2022 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.
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 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 _____, 2021

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