

# MISSING ORIGINAL LEGISLATION

Resolution / Ordinance Number: 80178

City Council Meeting Date October 3, 2006

Agenda Item No. 15-1-1

Recorded Vote 6 AYES, 1 ABSENT, 1 EXC

## Reason for Missing Legislation:

- Draft submitted in agenda packet, original never received
- Council amended legislation at the meeting

## Responsible Contact Information

Department CEDA

Contact Person/Ext. \_\_\_\_\_

Notes (if any)

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2009 JAN 16 PM 4: 33

Approved as to Form and Legality

*F. Faiz*

City Attorney

**BOARD OF DIRECTORS  
OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

GHAD Resolution No. 4

Introduced by Board Member \_\_\_\_\_

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**RESOLUTION OF INTENTION TO ORDER AN ASSESSMENT FOR THE OAKLAND  
AREA GHAD AND SETTING A DATE FOR A PUBLIC HEARING TO CONSIDER  
THE PROPOSED ASSESSMENT AND PROTESTS AGAINST THE ASSESSMENT**

**WHEREAS**, on July 18, 2006, the Oakland City Council adopted Resolution No. 80058, approving the formation of the Oakland Area GHAD as described in the Oakland Area GHAD Plan of Control dated May 9, 2006, as revised August 31, 2006, and appointed itself as the Board of Directors of the GHAD (GHAD Board); and

**WHEREAS**, in order to pay for the cost and expenses of maintaining and operating any GHAD improvements acquired or constructed for the Oakland Area GHAD pursuant to Public Resources Code sections 26500 *et seq.*, it will be necessary to provide for a reliable source of funding; and

**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 Oakland Area 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; and

**WHEREAS**, the property within the Oakland Area GHAD is identified in the map attached hereto as Attachment 4-A, each parcel within the GHAD boundary will be assessed.

**WHEREAS**, an Engineer's Report has been prepared by the Oakland Area GHAD General Manager and 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 Oakland Area GHAD Engineer's Report attached hereto as Attachment 4-B sets forth the purpose of the Oakland Area GHAD, the estimated budget, the total assessment that will be chargeable to the entire Oakland Area GHAD, the proposed estimated assessment to be levied against each parcel of property within the Oakland Area GHAD, and a description of the method used in formulating the estimated assessments.

**WHEREAS**, currently none of the parcels to be assessed has been improved with the construction of a residence and the Oakland Area GHAD will not incur any expenses before the

City issues the first residential building permit for one of these parcels; consequently, the authorized assessment will not be actually levied on a parcel until the first fiscal year following issuance of a residential building permit for that parcel.

**NOW, THEREFORE**, the Board of Directors of the Oakland Area GHAD hereby resolves and orders 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 expenses of maintaining and operating any GHAD improvements acquired or constructed pursuant to Public Resources Code sections 26500 *et seq.* shall be assessed against the property within the Oakland Area GHAD, which is benefited by the Oakland Area GHAD.

2. The GHAD Board further declares its intention to assess against the property within the Oakland Area GHAD all or part of the amounts set forth in the Oakland Area GHAD Engineer's Report commencing the first fiscal year following issuance of a residential building permit for that parcel, which is estimated to occur in year 2007.

3. Notwithstanding Paragraph 2 above, the GHAD Board shall not order this assessment if a majority protest exists as defined in Section 4(e) of Article XIII(D) of the California Constitution.

4. Each of the parcels identified in Attachment 4-A 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, in order to control geologic hazards within the Oakland Area GHAD, the Oakland Area GHAD may, without limitation: (a) evaluate the performance of the natural, cut and reconstructed slopes, the surface drainage and ditches to prevent certain geologic hazards within the Oakland Area GHAD; (b) perform certain temporary and permanent mitigation, repairs and improvement measures to prevent, mitigate, abate and control geologic hazards within the Oakland Area GHAD; (c) maintain debris benches, drainage systems and instruments such as piezometers, settlement monitors and inclinometers; (d) maintain detention ponds; and (e) establish a reserve to fund, prevent, mitigate, abate or control geologic hazards within the Oakland Area GHAD. These special benefits are described in detail in the Oakland Area GHAD Plan of Control.

5. Hereafter, whenever the parcels identified in Attachment 4-A are re-subdivided and a final map is approved and filed for recording with the County Recorder, each newly created residential lot will be assessed on an equal basis with each single family and multi-family lot being an individual "residential unit." The annual assessment amount for each residential unit will be calculated by dividing the annual Oakland Area GHAD budget by the number of residential units then existing within the Oakland Area GHAD boundaries. It is anticipated that upon completion of the Siena Hill development, the Oakland Area GHAD boundaries will cover the 32 unit subdivision site, and improvements within the access easement and associate right-of-way areas.

6. The GHAD Board has reviewed and considered the Oakland Area GHAD Engineer's Report. The special benefit derived from the Oakland Area GHAD by each parcel is proportionate to the entire costs of the Oakland Area 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.

7. As required by Government Code Section 53753, not less than 45 days prior to the public hearing scheduled for December 5, 2006, the Clerk of the Oakland Area GHAD shall cause to be mailed the "Notice of Adoption of Resolution" of the Public Hearing, attached hereto as Attachment 4-C, to the record owners of each parcel upon which the assessment will be imposed. The sealable Ballot, attached hereto as Attachment 4-D, and the Oakland Area GHAD Engineer's Report, shall be attached to the Notice.

8. After confirmation by the GHAD Board of any assessment, the GHAD Clerk shall file, in the office of the county recorder, a copy of the assessment diagram, and shall comply with all other requirements set forth in Streets & Highways Code Section 3114.

9. The GHAD Board will conduct the public hearing on November 28, 2006 at 7:00 p.m. at Council Chambers, 1 Frank H. Ogawa Plaza, Oakland, California. The Clerk of the Oakland Area GHAD shall deliver all sealed ballots received from record owners of parcels within the Oakland Area GHAD boundaries to the GHAD Board prior to the start of 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 then close the public hearing and consider all protests against the proposed assessment. After the GHAD Board closes the public hearing, the Treasurer/Clerk of the Oakland Area GHAD, 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 Oakland Area GHAD.

10. Upon authorization of the assessment, the GHAD Board shall levy the authorized assessment on each parcel the first fiscal year following issuance of a residential building permit for each parcel.

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

OAKLAND, CALIFORNIA, October 3, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES: Brooks, Brunner, Chang, Kernighan, Nadel, Quan, Reid

NOES:

ABSENT:

ABSTENTIONS:

EXCUSED: De La Fuente

ATTEST:



Clerk of the GHAD Board

**Attachment:** Attachment 4-A (Map of Oakland Area GHAD Boundaries)

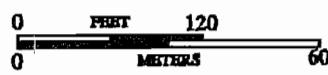
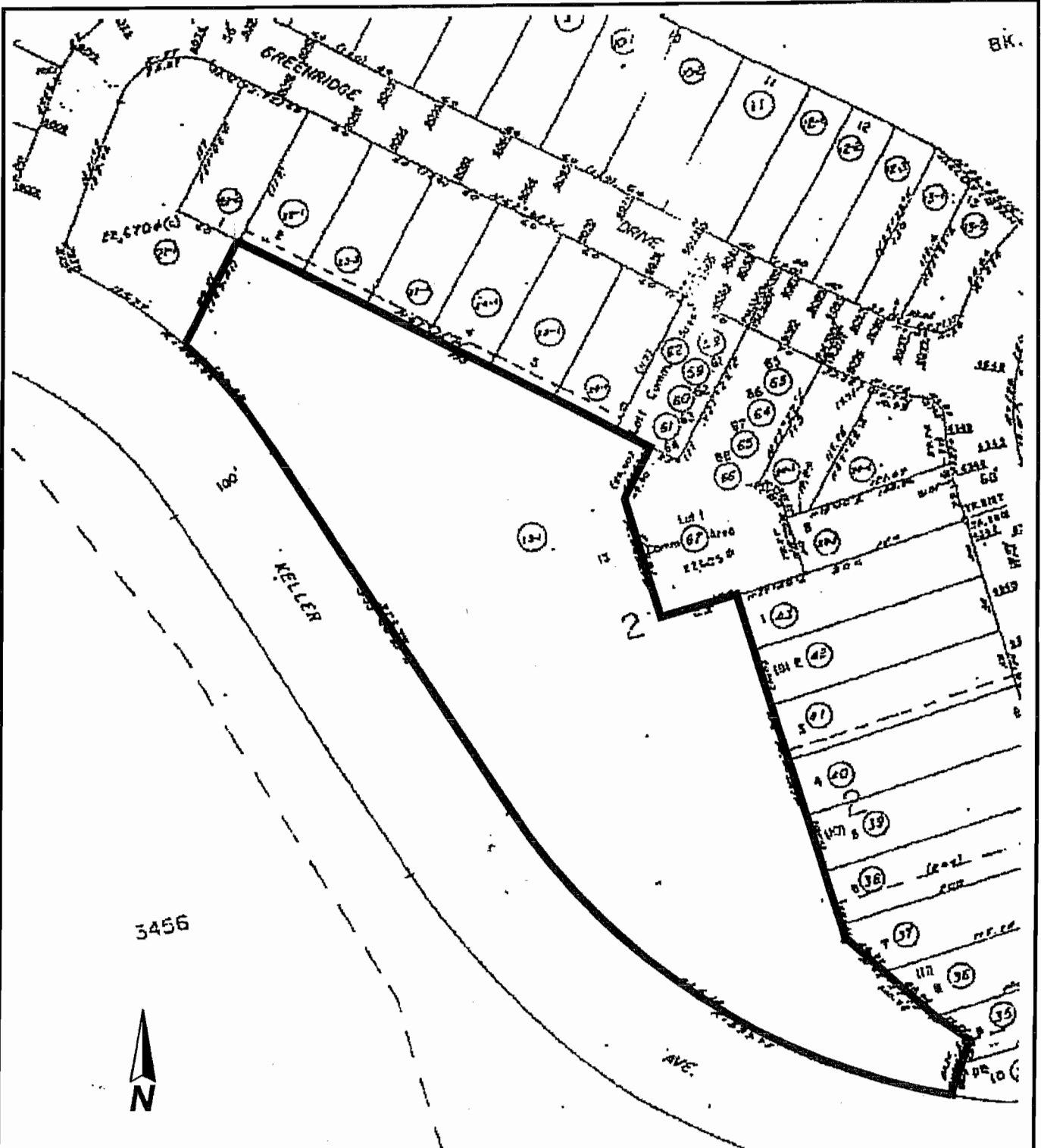
Attachment 4-B (Engineer's Report)

Attachment 4-C (Notice of Adoption of Resolution)

Attachment 4-D (Ballot)

ATTACHMENT 4-A

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**EXPLANATION**  
 ——— GHAD BOUNDARY

BASE MAP SOURCE: OAKLAND ASSESSOR DEPT.



**GHAD BOUNDARY**  
 OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT  
 OAKLAND, CALIFORNIA

PROJECT NO: 6964.1.001.01  
 DATE: AUGUST 2006  
 DRAWN BY: JMG | CHECKED BY: MS

FIGURE NO.  
**1**

ATTACHMENT 4-B

**ENGINEER'S REPORT**

for

**OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT**

**CITY OF OAKLAND, CALIFORNIA**

**AUGUST 31, 2006**

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EXHIBITS A - C – GHAD BOUNDARY

EXHIBIT D – GHAD BUDGET



ENGINEER'S REPORT

GEOLOGIC HAZARD ABATEMENT DISTRICT-OAKLAND AREA  
(Pursuant to the Public Resources Code of the State of California, Section 26500 et seq.)

CERTIFICATION OF FILING

ENGEO Incorporated makes this report as directed by the GHAD Board of Directors. The GHAD is intended to provide geologic hazard improvements for Oakland area projects development and to levy and collect assessments sufficient to pay for those improvements.

The improvements, which are the subject of this report, are defined as any activity necessary or incidental in the prevention, mitigation, abatement, or control of a geologic hazard, construction, maintenance, repair, or operation of any 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 BOUNDARIES
- IV. SERVICE LEVELS
- V. DESCRIPTION OF GHAD IMPROVEMENTS
- VI. ASSESSMENT METHOD
- VII. ASSESSMENT LIMIT - BUDGET PROJECTION

The undersigned respectfully submits the enclosed Engineer's Report.

Date: \_\_\_\_\_ By: ENGEO Incorporated

\_\_\_\_\_, GE

I HEREBY CERTIFY that the enclosed Engineer's Report was filed on the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Clerk of the Board  
Oakland Area  
Geologic Hazard Abatement District  
Oakland, California

I HEREBY CERTIFY that the enclosed Engineer's Report was approved and confirmed by the GHAD Board on the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
President of the Board  
Oakland Area  
Geologic Hazard Abatement District  
Oakland, California

APPROVED \_\_\_\_\_

ENGINEER'S REPORT

for

OAKLAND AREA  
GEOLOGIC HAZARD ABATEMENT DISTRICT

for the

ESTABLISHMENT OF AN ASSESSMENT LIMIT

I. INTRODUCTION

The Oakland Area Geologic Hazard Abatement District (GHAD) was formed under the authority of the California Public Resources Code, Division 17, Section 26500 et seq.

II. BACKGROUND

The Oakland City Council adopted Resolution 80058 C. M. S. on July 18, 2006, approving the formation of the Oakland Area Geologic Hazard Abatement District ("GHAD" or "District").

III. GEOLOGIC HAZARD ABATEMENT DISTRICT BOUNDARIES

The boundaries for the GHAD are shown in the diagram attached hereto as Exhibits A through C.

IV. SERVICE LEVELS

The GHAD provides for activity that is 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 activities.

2. In conjunction with the County Assessor's Office, setting the annual levying of assessments on the property tax rolls.
3. Retention of geotechnical professionals to perform the monitoring duties as described in the GHAD Plan of Control.
4. Performance of GHAD maintenance activities in accordance with the GHAD Plan of Control. These maintenance activities include:
  - Lined drainage ditches.
  - Storm drain inlets, outfalls and pipelines within common areas.
  - Subdrains.
  - Retaining wall and appurtenant drainage facility maintenance.
  - Bioswale maintenance.
  - Erosion management.
5. Slope reconstruction:
6. Preparation of annual GHAD budgets.

#### V. DESCRIPTION OF THE GHAD IMPROVEMENTS

The GHAD Improvements are described in the Plan of Control prepared for the Oakland Area GHAD, dated May 9, 2006 (revised August 31, 2006). In general, improvements include drainage systems (including concrete v-ditches in open space, open-space storm drain inlets and outlets and subdrains in open space), retaining walls with appurtenant drainage systems, and reconstructed slopes.

#### VI. ASSESSMENT METHOD

The improvements described in Section V are distributed within the GHAD boundaries. Maintenance and protection of these improvements provide a special benefit to all property owners within the GHAD. The District Engineer hereby finds that the properties within the District receive approximately equal special benefit from the work and improvements within the GHAD. As a result, the GHAD assessment is distributed among all property owners within the GHAD.

The total number of residential units within the District is divided into the annual District budget to develop the annual assessment amount. 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 Oakland Area GHAD area. In preparation of the budget, several factors were considered including:

- Site geology.
- Proposed remedial grading.
- Proximity of geologic hazards to proposed residences.
- Site access considerations.
- Elements requiring routine maintenance including:
  1. Surface drainage facilities
  2. Graded slopes
  3. Storm drain inlets, outfalls and pipelines within common areas
  4. Retaining wall and appurtenant drainage facility maintenance
  5. Bioswale maintenance
  6. Erosion management

#### VII. ASSESSMENT LIMIT - BUDGET

Based on the estimated expenses for on-going operations, and allowing for larger (approximately \$750,000) geologic events at 15-year intervals, a budget was prepared for the purpose of estimating initial assessment levels (Exhibit D). In order to establish a reasonable reserve in the early years following formation of the GHAD, there will be an initial deferral of GHAD expenses as described in the Plan of Control.

The District Engineer recommends an annual assessment limit (2006 dollars) of \$2,632 per residential unit to be levied in conjunction with the issuance of building permits or at the time of legal parcel formation when the Final Map is adopted, whichever is later, as described in the Plan of Control. This limit will escalate annually based on the San Francisco-Oakland-San Jose Consumer Price Index.

**EXHIBITS A - C**

GHAD Boundary

## **EXHIBIT A - I**

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### **SIENA HILL PROPERTY**

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

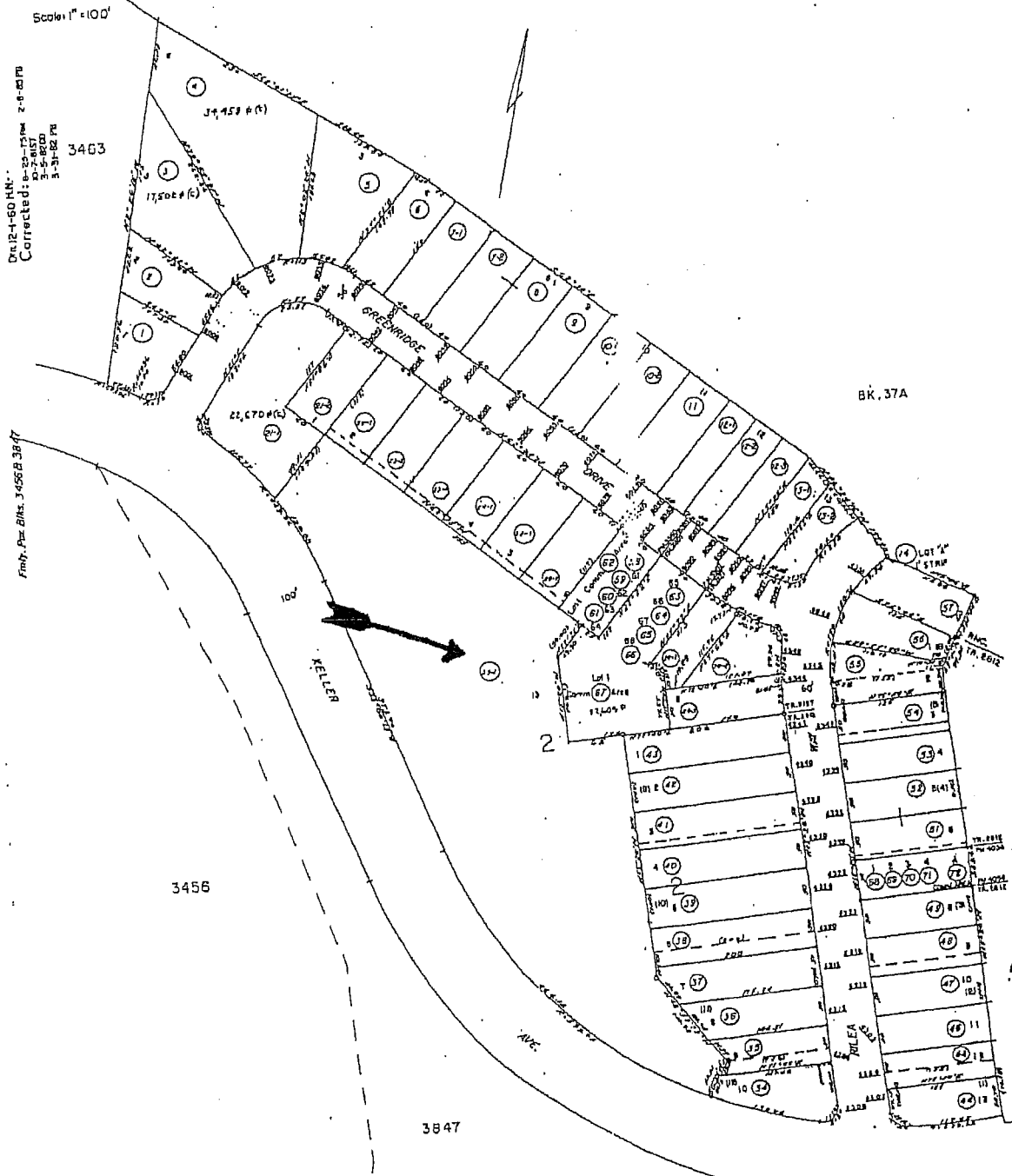
Lot 13 in Block 2, as said lot and block are shown on the Map of "Tract 2127, Oakland, Alameda County, California", filed July 28, 1960, in Book 42 of Maps, Page 27, Alameda County Records.

EXCEPTING THEREFROM: Those portions thereof described in Parcels 2, 3, 4, 5, 6, 7 and 8, as described in the Deed by Sterling Development Company to Oddstead Homes, dated February 12, 1962, recorded February 19, 1962, Reel 518, Image 315, Instrument No. AT/22269, Alameda County Records.

(BEING APN 040A-3457-033-01)

3457

SIENA HILL PROPERTY



"Notice: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other Land, No liability is assumed by reason of any reliance hereon."



## EXHIBIT B - 1

### ROADWAY EASEMENT ON ADJACENT PROPERTY

#### EASEMENT FOR INGRESS & EGRESS

AN EASEMENT FOR INGRESS & EGRESS AND PUBLIC UTILITIES INCLUDING STORM DRAINAGE IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA BEING DESCRIBED AS FOLLOWS:

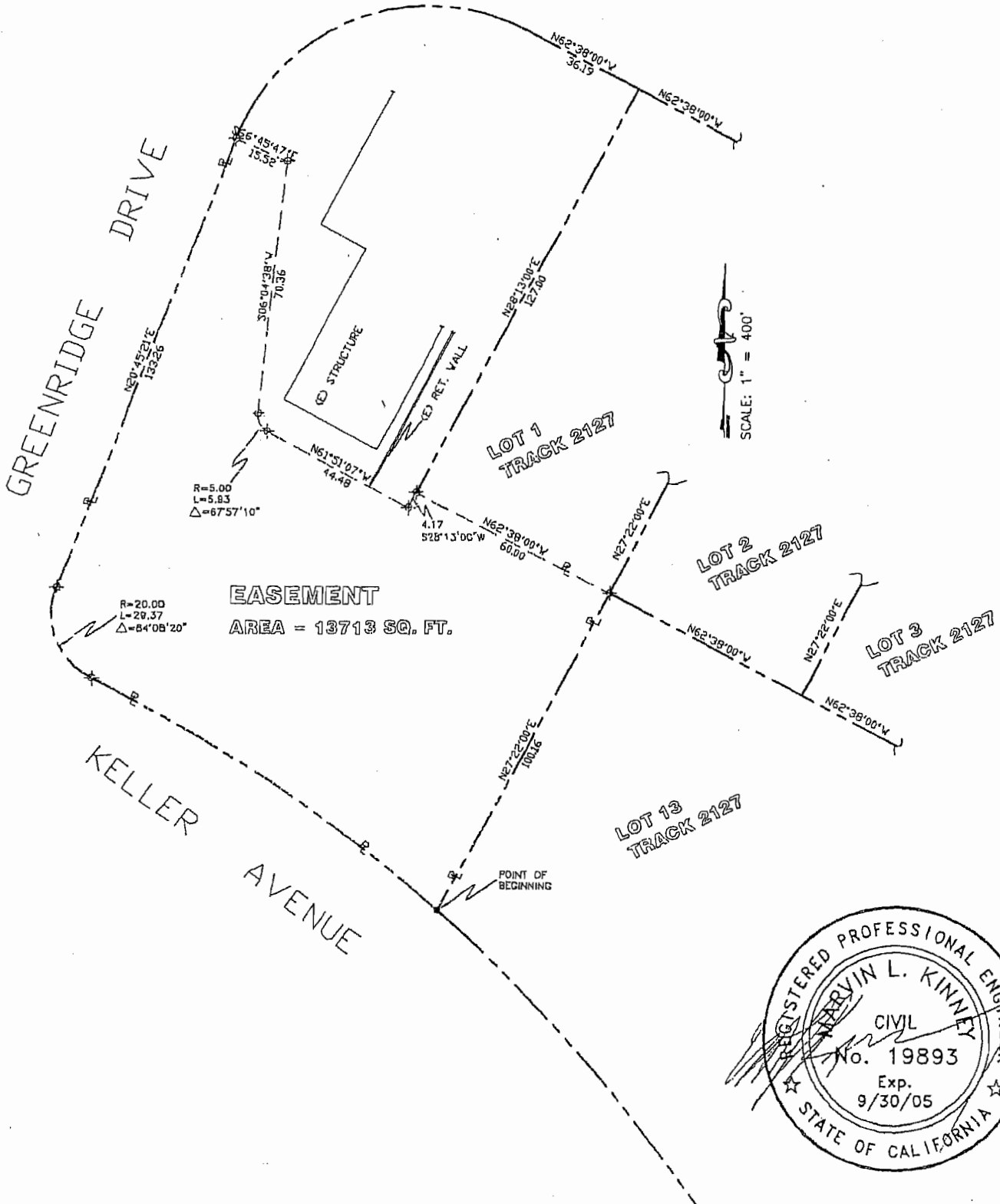
BEGINNING AT THE SOUTHWEST CORNER OF LOT 13 IN BLOCK 2 AS SHOWN ON THE MAP OF "TRACT 2127, OAKLAND, ALAMEDA COUNTY, CALIFORNIA", FILED JULY 28, 1960 IN BOOK 42 OF MAPS, PAGE 27, ALAMEDA COUNTY RECORDS, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF KELLER AVENUE; THENCE ALONG THE WESTERLY LINE OF SAID LOT 13, NORTH 27° 22' 00" EAST, 100.16 FEET, MORE OR LESS TO THE SOUTHWEST CORNER OF LOT 1 AS SHOWN ON SAID MAP OF "TRACT 2127"; THENCE ALONG SAID SOUTHERLY LINE OF SAID LOT 1, NORTH 62° 38' 00" WEST, 60 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 28° 13' 00" WEST, 4.17 FEET; THENCE NORTH 61° 51' 07" WEST, 44.48 FEET, THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 5 FEET, AN ARC LENGTH OF 5.93 FEET AND A CENTRAL ANGLE OF 67° 57' 10"; THENCE ALONG A LINE TANGENT TO THE CURVE NORTH 06° 04' 38" EAST, 70.36 FEET; THENCE NORTH 66° 45' 47" WEST, 15.52 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF GREENRIDGE DRIVE; THENCE ALONG THE SAID RIGHT-OF-WAY LINE SOUTH 20° 45' 21" WEST, 133.26 FEET; THENCE ALONG A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 84° 08' 20", AN ARC LENGTH OF 29.37 FEET AND A RADIUS OF 20.00 FEET TO POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF KELLER AVENUE; THENCE ALONG THE SAID NORTHERLY RIGHT-OF-WAY LINE, BEING A CURVE TO THE RIGHT HAVING A RADIUS OF 449.96 FEET, AN ARC LENGTH OF 115.77 FEET AND THROUGH A CENTRAL ANGLE OF 14° 44' 31" TO THE POINT OF BEGINNING.

CONTAINING 13,713 SQUARE FEET.



EXHIBIT B - 2

ROADWAY EASEMENT ON ADJACENT PROPERTY



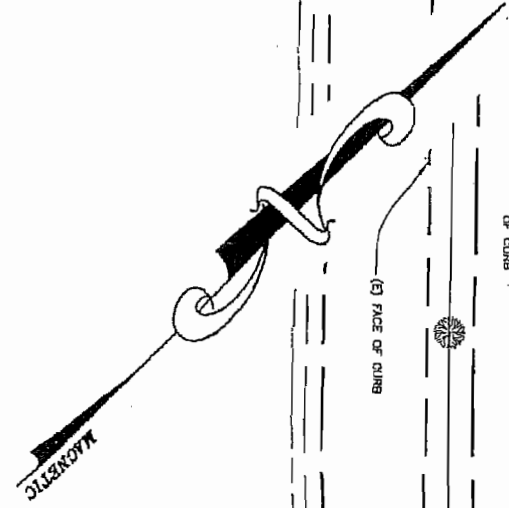
KELLER AVENUE

R.O.W.

MATCHLINE

(A)

(A)



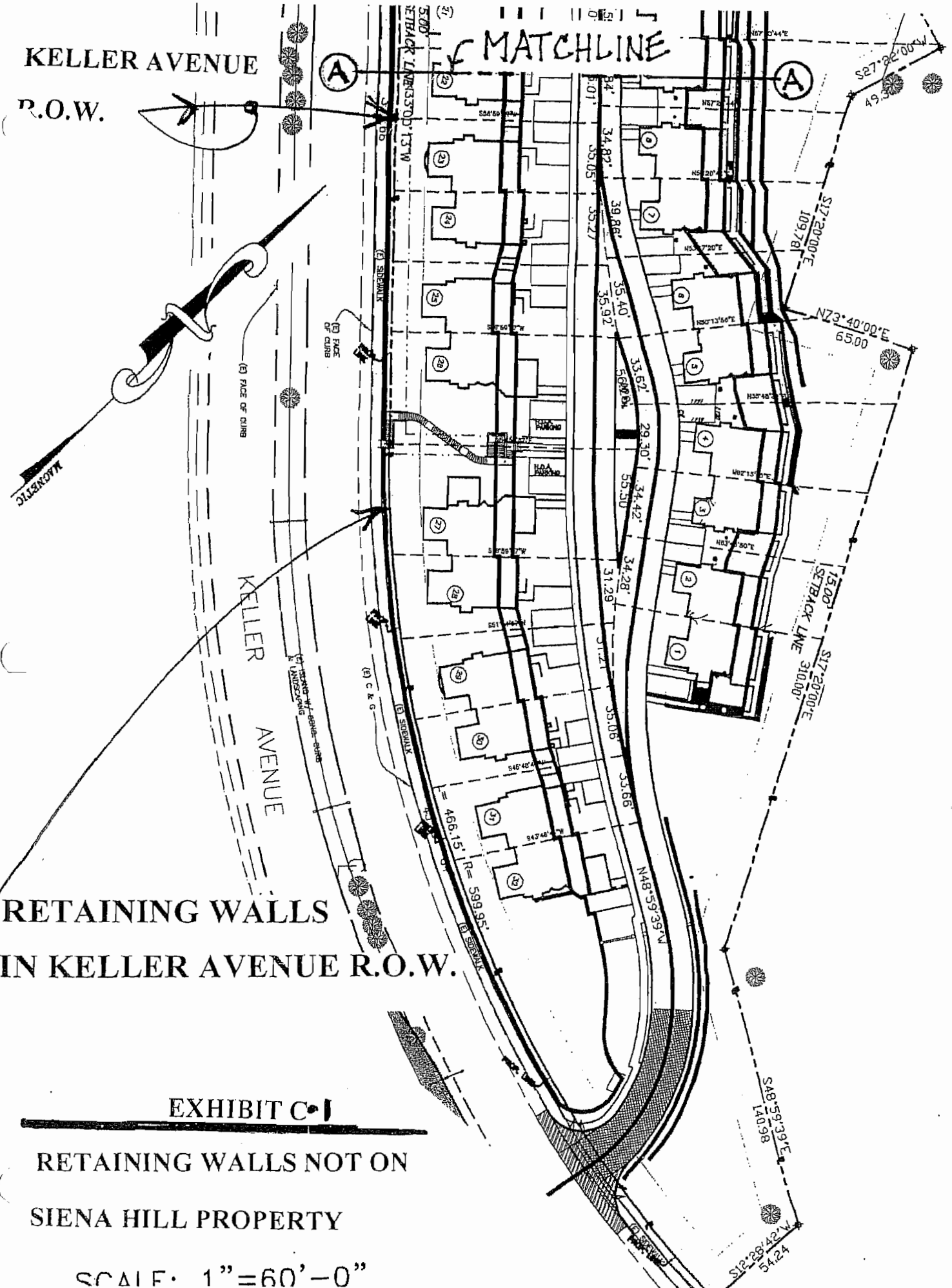
KELLER AVENUE

RETAINING WALLS IN KELLER AVENUE R.O.W.

EXHIBIT C-1

RETAINING WALLS NOT ON SIENA HILL PROPERTY

SCALE: 1"=60'-0"

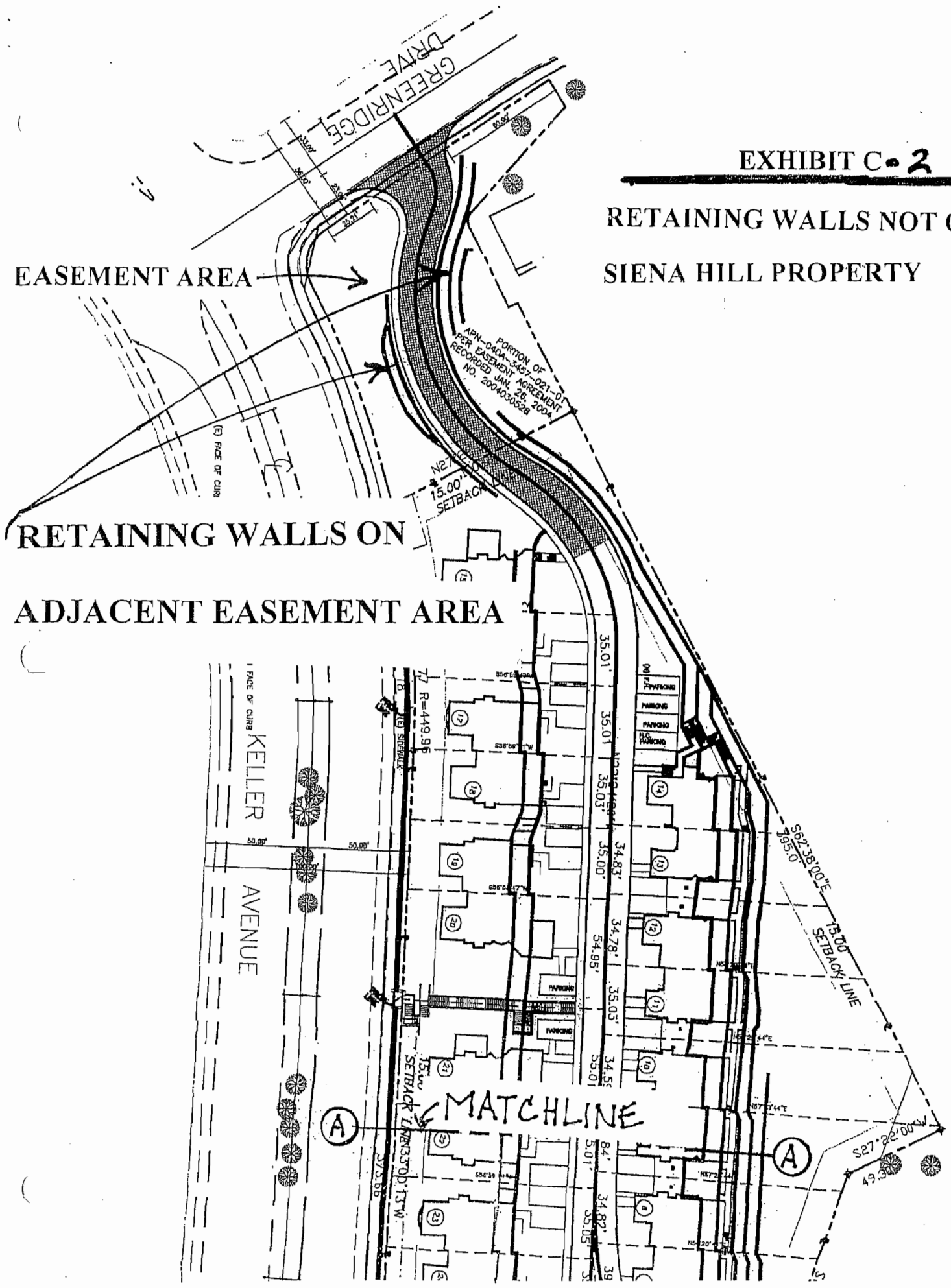


**EXHIBIT C-2**

**RETAINING WALLS NOT ON  
SIENA HILL PROPERTY**

EASEMENT AREA

RETAINING WALLS ON  
ADJACENT EASEMENT AREA



**EXHIBIT D**

Oakland Area GHAD Budget

6964.1.001.01  
August 31, 2006

**EXHIBIT D**  
**Oakland Area Geologic Hazard Abatement District**  
**Budget – August 31, 2006**

**ASSUMPTIONS**

Total No. of Units	32
Annual Assessment per Unit	\$2,632
Annual Adjustment in Assessment	3.0%
Inflation	3.0%
Investment Earnings	6.0%
Frequency of Large-Scale Repair (years)	15
Cost of Large-Scale Repair (current \$)	\$750,000

**ESTIMATED ANNUAL EXPENSES IN 2006 DOLLARS**

Bioswale Maintenance	1,000
Erosion Management/Repair	4,500
GHAD Monitoring Program	3,500
Private Street Drainage Maintenance	1,000
Retaining Wall Maintenance/Replacement	1,000
Major Landsliding (Annualized)	50,000
Revegetation	1,000
Slope Stabilization (incl. minor landsliding)	5,000
Technical Consultants	6,500
Attorney Fees	3,500
GHAD Staff/Administration	7,000
Accounting	5,000
Misc & Contingency (10%)	<u>8,900</u>
<b>TOTAL</b>	<b>\$97,900</b>

## ATTACHMENT 4-C

### NOTICE OF ADOPTION OF RESOLUTION BY THE BOARD OF DIRECTORS OF OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)

On July 18, 2006, the Oakland City Council adopted Resolution No. 80058, approving and ordering the formation of the Oakland Area GHAD and appointing itself to act as the Board of Directors (GHAD Board). The Oakland Area GHAD was formed pursuant to Public Resources Code sections 26500 *et seq.* for the purpose of the prevention, mitigation, abatement and control of certain geologic hazards.

#### NOTICE IS HEREBY GIVEN that:

On October 3, 2006, the GHAD Board adopted Resolution No. 4 fixing a public hearing to consider adoption of an assessment to finance the GHAD. If the assessment is adopted, it is anticipated that each parcel you own will be assessed approximately \$2,632 per year, plus an annual adjustment to reflect the percentage change in the San Francisco-Oakland-San Jose Consumer Price Index (CPI) over the previous twelve-month period. The assessment for a parcel will be levied beginning the first fiscal year after issuance of the building permit for that parcel. The assessment will continue to be levied in perpetuity.

The attached Engineer's Report for the Oakland Area GHAD was prepared by the GHAD General Manager and by a registered professional engineer certified in the State of California, and describes in detail the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated. The Engineer's Report specifically sets forth the yearly estimated budget, the total assessment that will be chargeable to the entire Oakland Area GHAD, the proposed estimated assessments to be levied each year against each parcel of property, and a description of the method used in formulating the estimated assessment. A copy of the Engineer's Report is also available for inspection at the office of the City of Oakland's Planning and Zoning Division, Community Economic Development Department, located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612-2032.

The GHAD Board will conduct a public hearing December 5, 2006 at 7:00 p.m. at Council Chambers, 1 Frank H. Ogawa Plaza, Oakland, California, on the proposed assessment.

The following paragraph provides the procedures for returning and tabulating the ballots. A copy of this Notice, sealable ballot and Engineer's Report has been sent to each of the property owners within the Oakland Area GHAD; your ballot is attached to this Notice. The ballot may be completed and mailed or hand delivered to the Clerk of the Board of Directors, Oakland Area Geologic Hazard Abatement District, c/o Patricia E. Curtin, Morgan Miller Blair, 1331 N. California Blvd., Suite 200, Walnut Creek, California 94596, or you may submit your ballot at the public hearing. You may submit, withdraw, or change your ballot at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing. At the public hearing, the GHAD Clerk will deliver the sealed ballots it has received to the GHAD Board. The ballots shall remain sealed until they are tabulated. The GHAD Board will then close the public hearing and consider all protests against the proposed assessment. After the GHAD Board closes the public hearing, the GHAD Clerk, or some other impartial person not having a vested interest in the outcome of the proposed assessment, will tabulate the ballots

submitted and not withdrawn, in support of or in opposition to the proposed assessment. The GHAD Board shall not impose the proposed assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the public hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots will be weighted according to the proportional financial obligation of the affected property.

Inquiries regarding the proposed assessment may be made to Heather Klein of the City of Oakland's Planning and Zoning Division, Community Economic Development Department, (510) 238-3659.



ATTACHMENT 4-D

**BALLOT**

**Identification of Parcel:** \_\_\_\_\_

**Record Owner:** \_\_\_\_\_

\_\_\_\_\_ Yes, I approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

\_\_\_\_\_ No, I do not approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

\_\_\_\_\_  
Signature of Record Owner or  
Authorized Representative of the  
above-identified parcel(s)

Mail or deliver sealed Ballot to:

Clerk of the Board of Directors,  
Oakland Area Geologic Hazard Abatement District  
c/o Patricia E. Curtin  
Morgan Miller Blair  
1331 N. California Blvd., Suite 200  
Walnut Creek, CA 94596

MINUTES FOR OCTOBER 3, 2006

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT

2006 NOV 21 AM 10:48

BOARD OF DIRECTORS MEETING

GHAD Board Members present: Jane Brunner (Dist.1), Patricia Kernighan (Dist. 2), Nancy Nadel (Dist. 3), Jean Quan (Dist. 4), Desley Brooks (Dist.6), Larry Reid (Dist. 7), Henry Chang (At-Large).

GHAD Board Member excused: Ignacio De La Fuente (Dist. 5).

Item 15.1 on the Meeting Agenda (October 3, 2006) for the concurrent meeting of the Oakland Redevelopment Agency/City Council/Geologic Hazard Abatement District Board.

Subject: Oakland Area Geologic Hazard Abatement District (GHAD)  
From: Community and Economic Development Agency  
Recommendation: Adopt the following pieces of legislation:

**Resolution No. 1:**

- Election/Appointment of Henry Chang as the Chairperson of the Oakland Area GHAD Board;
- Appointing Richard Clark as the Treasurer/Clerk of the Oakland Area GHAD;
- Appointing ENGEQ, Inc. as the General Manager of the Oakland Area GHAD;
- Appointing Patricia E. Curtin as the Attorney of the Oakland Area GHAD;
- Authorizing the Chairperson to negotiate and enter into a contract with Richard Clark for Treasurer/Clerk services; and
- Authorizing the Treasurer/Clerk to negotiate and enter into contracts for GHAD General Manager services and GHAD Attorney Services.

**Resolution No. 2:** Accepting the Oakland Area GHAD Plan of Control and Setting a Public Hearing to Consider Objections to the Plan of Control.

**Resolution No. 3:** Approving Oakland Area GHAD Budget.

**Resolution No. 4:** Intention to Order an Assessment for the Oakland Area GHAD and Setting a Date for a Public Hearing to Consider the Proposed Assessment and Protests Against the Assessment.

**A motion to approve Resolution No. 1 was made by GHAD Board Member Brooks and seconded by GHAD Board Member Brunner. The Board unanimously agreed to elect**

**Henry Chang as the Chairperson to the GHAD Board. Separate motions to approve Resolution Nos. 2 through 4 were made by GHAD Board Member Brooks and seconded by GHAD Board Member Reid. A correction to Resolution No. 2 was made by staff at the hearing to change the proposed hearing date specified in Paragraph 2 of Resolution No. 2 from November 28 to December 5. This change was approved by the Board in the motion approving Resolution No. 2. The motions carried by the following vote:**

**Votes:** Ayes: 7 – GHAD Board Member Brunner, GHAD Board Member Kernighan, GHAD Board Member Nadel, GHAD Board Member Quan, GHAD Board Member Brooks, GHAD Board Member Reid, and GHAD Board Member Chang. Excused: 1 - GHAD Board Member De La Fuente.

*No individuals from the public spoke on this item.*

Action by GHAD Board:

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Attest:



Richard Clark  
Clerk of the GHAD Board

OFFICE OF THE CITY CLERK  
OAKLAND

2006 NOV 21 AM 10:49

Approved as to Form and Legality

  
\_\_\_\_\_  
GHAD Attorney

**BOARD OF DIRECTORS  
OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

GHAD Resolution No. 5

---

**RESOLUTION APPROVING THE OAKLAND AREA GHAD PLAN OF CONTROL**

**WHEREAS**, on July 18, 2006, the Oakland City Council adopted Resolution No. 80058, approving and ordering the formation of the Oakland Area GHAD, as described in Resolution No. 79986 dated June 20, 2006;

**WHEREAS**, on July 18, 2006, the City Council appointed itself as the Board of Directors of the GHAD (GHAD Board);

**WHEREAS**, on October 3, 2006, the GHAD Board adopted Resolution No. 2 accepting the Oakland Area GHAD Plan of Control dated May 9, 2006, as revised August 31, 2006, and set a public hearing to consider the Plan of Control. The Plan of Control is attached hereto and incorporated herein as Attachment 5-A;

**WHEREAS**, the Plan of Control has been prepared consistent with Public Resources Code sections 26558 and 26509;

**WHEREAS**, the Plan of Control is exempt from the California Environmental Quality Act (Pub. Res. Code §§ 21000 *et seq.*) in accordance with Public Resources Code sections 21080(b)(4) and 26559.

**NOW, THEREFORE,** the GHAD Board resolves and orders that:

1. The Oakland Area GHAD Plan of Control dated May 9, 2006, as revised August 31, 2006, is hereby approved and adopted.
2. This Resolution shall become effective immediately upon its passage and adoption.

OAKLAND, CALIFORNIA, December 5, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES: Brooks, Brunner, Chang, Kernighan, Nadel, Quan, Reid, and De La Fuente

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:



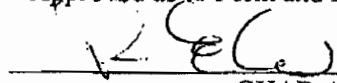
Clerk of the GHAD Board

**Attachment:**        Attachment 5-A (Plan of Control)

OFFICE OF THE CITY CLERK  
OAKLAND

2006 NOV 21 AM 10:49

Approved as to Form and Legality

  
\_\_\_\_\_  
GHAD Attorney

**BOARD OF DIRECTORS  
OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

GHAD Resolution No. 6

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**RESOLUTION ACCEPTING CANVASS OF VOTES FOR THE  
OAKLAND AREA GHAD**

WHEREAS, on July 18, 2006, the Oakland City Council, acting in the capacity of the Board of Directors for the Oakland Area GHAD (GHAD Board), held a public hearing on a benefit assessment proposed to be levied on real property located within the Oakland Area GHAD. After the close of the public hearing, the GHAD Clerk opened the sealed Ballots that had been submitted and not withdrawn, prior to the close of the bearing and tabulated them in support of or in opposition to the proposed assessment. In tabulating the Ballots, the GHAD Clerk weighted them according to the proportional financial obligation of the affected property.

NOW, THEREFORE, the GHAD Board hereby resolves and orders that:

1. The GHAD Board accepts the Canvass of Votes from the GRAD Clerk showing the benefit assessment passed as follows:

<u>Total Landowner</u>	<u>Voted</u>	<u>Yes</u>	<u>No</u>
1	1	1	0

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

OAKLAND, CALIFORNIA, December 5, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES: Brooks, Brunner, Chang, Kernighan, Nadel, Quan, Reid, and De La Fuente

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

  
\_\_\_\_\_  
Clerk of the GHAD Board

OFFICE OF THE CITY CLERK  
OAKLAND

2006 NOV 21 AM 10:49

Approved as to Form and Legality

  
GHAD Attorney

**BOARD OF DIRECTORS  
OAKLAND AREA GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

GHAD Resolution No. 7

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**RESOLUTION CONFIRMING ASSESSMENT FOR THE OAKLAND AREA GHAD  
AND ORDERING LEVY AND COLLECTION THEREOF**

**WHEREAS**, on July 18, 2006 the Oakland City Council adopted Resolution No. 80058, approving and ordering the formation of the Oakland Area GHAD, as described in Resolution No. 79986 dated June 20, 2006, and in the Oakland Area GHAD Plan of Control dated May 9, 2006, as revised August 31, 2006;

**WHEREAS**, on July 18, 2006 the City Council appointed itself as the Board of Directors of the Oakland Area GHAD (GHAD Board);

**WHEREAS**, in order to pay for the cost and expenses of maintaining and operating any GHAD improvements acquired or constructed pursuant to Public Resources Code sections 26500 *et seq.*, it will be necessary to provide for a reliable source of funding;

**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 the assessment;

**WHEREAS**, on October 3, 2006, pursuant to both Public Resources Code sections 26650 *et seq.* and Article XIII(D) of the California Constitution, the GHAD Board adopted Resolution No. 4, Resolution of Intention to Order an Assessment for the Oakland Area GHAD and Setting a Date for a Public Hearing to Consider the Proposed Assessment and Protests Against the Assessment;

**WHEREAS**, Resolution No. 4 declares the GHAD Board's 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 Oakland Area GHAD improvements necessitated by the GHAD, be assessed against the property within the Oakland Area GHAD. Resolution No. 4 specifies the parcels of property that are to be assessed;

**WHEREAS**, Resolution No. 4 declares the GHAD Board's intention to assess the property of the Oakland Area GHAD, for the fiscal year 2006 and for subsequent years, all or a

part of the amounts set forth in the Engineer's Report, attached hereto and incorporated herein as Attachment 7-A, and prepared pursuant to the provisions of Public Resources Code section 26651 and Article XIII D, Section 4 of the California Constitution;

**WHEREAS**, Resolution No. 4 directs the GHAD Clerk to deliver all the assessment ballots received from record owners to the GHAD Board prior to the start of the Public Hearing. Resolution 4 states that the GHAD Board will then consider all protests against the proposed assessment and tabulate the assessment ballots. Resolution 4 states that in tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation on the affected property. Resolution 4 states that the GHAD Board shall not impose the assessment if there is a majority protest. Resolution 4 states that if there is no majority protest, the GHAD Board shall authorize the assessment.

**NOW, THEREFORE**, the GHAD Board hereby resolves and orders that:

1. The GHAD Clerk provided 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.
2. The public hearing was held before the GHAD Board on December 5, 2006 at 7:00 p.m. at Council Chambers, 1 Frank Ogawa Plaza, Oakland, California. At the hearing, the GHAD Board heard and considered any and all protests to the proposed assessment. At the hearing, the GHAD Clerk delivered to the GHAD Board all the ballots received from record owners of property within the Oakland Area GHAD. The GHAD Board tabulated the ballots and weighted them according to the proportional financial obligation on the affected property. The GHAD Board then closed the hearing.
3. Based upon the tabulation of the ballots, the GHAD Board finds that there is not a 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.
4. The GHAD Board hereby orders that the costs and expenses of maintaining and operating the Oakland Area GHAD improvements against the property within the Oakland Area GHAD.
5. The GHAD Board further confirms the assessment, as set forth in the Engineer's Report, and orders that the amount of the assessments against each parcel of property within the Oakland Area GHAD shall be as provided in the Engineer's Report.
6. The GHAD Board further orders that the amounts set forth in the Engineer's Report (including an annual adjustment to reflect the percentage change in the Consumer Price Index over the previous twelve month period) shall be assessed against the property within the Oakland Area GHAD at the time the City issues the residential building permit and for subsequent fiscal years.
7. The GHAD Board further orders that the assessment shall be levied and collected in the following manner:



a. The GHAD Clerk shall cause to be recorded a Notice of Assessment, in substantially the form attached as Attachment 7-B, as provided for in Section 3114 of the California Streets' and Highways Code, at which time the assessment shall attach 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 Oakland Area GHAD are payable.

c. All funds generated by the assessment, and all interest earned on the assessment, shall be segregated and deposited in a separate account for the exclusive benefit of the Oakland Area GHAD, as directed by the treasurer/Clerk. Said funds shall not be deposited with or credited to the City or any of its departments, including the City Finance and Management Agency or the City treasury.

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

OAKLAND, CALIFORNIA, December 5, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES: Brooks, Brunner, Chang, Kernighan, Nadel, Quan, Reid, and De La Fuente

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:



Clerk of the GHAD Board

**Attachment:** Attachment 7-A (Engineer's Report)  
Attachment 7-B (Notice of Assessment)