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Approved as to Form and Legality

  
Oakland City Attorney's Office

# OAKLAND CITY COUNCIL

Resolution No. 80213 C.M.S.

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## RESOLUTION DECLARING THE ABATEMENT OF AN IMPENDING PERIL AND AUTHORIZING IMMEDIATE ACTION TO PREVENT LANDSLIDE DAMAGE TO McKILLOP ROAD IN OAKLAND

**WHEREAS**, pursuant to a resolution enacted by the City Council of the City of Oakland on October 17, 2006, the City Council has proclaimed a local emergency as a result of circumstances of hillside instability and earth movement in the vicinity of McKillop Road in the City of Oakland; and

**WHEREAS**, in light of the resolution, California Government Code Sections 865 et seq. provide that a local public entity is not liable for damages or injury to persons or property resulting from the impending peril of gradual earth movements or from any action taken by the local public entity to abate such peril provided the legislative body of the local public entity has, on the basis of expert opinion or other reasonable basis, done all of the following:

1. Found the existence of such impending peril;
2. Determined appropriate remedial action to halt, stabilize or abate such impending peril;
3. Undertaken to implement such remedial action; and

**WHEREAS**, there is a documented history of ongoing slide activity encompassing the McKillop Road area, resulting over time in permanent closure of a portion of the existing roadway and the destruction of numerous houses in the area; and

**WHEREAS**, recent slide activity in the Spring of 2006 has resulted in the complete destruction of one home and severe damage to several other properties; and

**WHEREAS**, the recent slide activity has undermined the integrity of the existing roadway, creating a public health and safety emergency; and

**WHEREAS**, the City has hired a geotechnical expert to assist and guide the City (1) in assessing the danger of this affected area, much of which is held in private ownership, (2) in advising the homeowners and residents in the affected area of the conditions and impending perils and (3) in developing recommendations as to mitigation measures that should be put in place to attempt to mitigate the potential for damage to the roadway and

therefore potential damage to property and injury to persons in and around the affected area; and

**WHEREAS**, Consultant's statement attesting to the need to perform emergency work to buttress the McKillop roadway is attached hereto and incorporated herein by reference as Exhibit "A"; and

**WHEREAS**, the City has repeatedly given notice to the property owners surrounding the McKillop Road Area as to the dangerous conditions presented by the hillside instability; and

**WHEREAS**, City staff and the Consultant believe, based on the best available information, that continued earth movement is likely to undermine the integrity of McKillop Road in the event of heavy rain storms; and

**WHEREAS**, earth movement affecting the roadway could result in a partial or complete failure of the roadway and resulting damage to sewer, water, gas and electrical utilities located within or about the roadway; and

**WHEREAS**, despite strong encouragement from City staff for neighbors to cooperate with City efforts to protect the roadway, a number of the residents in and around the McKillop Road Slide Area have refused to provide the City with permissive entry onto their properties to begin the construction work necessary to save the roadway; and

**WHEREAS**, in view of the likelihood of severe storms this winter, the City staff, upon the recommendation and opinion of its Consultant, has determined that construction of a support system for the McKillop Road must be undertaken forthwith to minimize the possibility of a collapse of the road; and

**WHEREAS**, the City Council desires to facilitate the execution of such remedial measures and in so doing finds it necessary to declare the condition of the McKillop Slide Area an impending peril which must be abated so as to fall within the statutory protections and immunities offered by Government Code Sections 865 et seq.; now, therefore, be it

**RESOLVED:** That the City Council of the City of Oakland, based upon the opinion and recommendation of its Consultant as well as the City staff's knowledge, experience and observations of the affected area, hereby declares and finds the following:

1. The existence of an impending peril to persons or property as a result of earth movement that undermines McKillop Road;
2. The necessity for immediate and appropriate remedial action to halt, stabilize or abate such impending peril's effect on the stability and integrity of McKillop Road; and
3. The necessity to undertake to have such remedial action implemented, with the remedial work prosecuted by the City; and, be it

**FURTHER RESOLVED:** That this declaration of impending peril and abatement thereof is enacted in accordance with California Government Code Sections 865, 866 and 867.

385186

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

OCT 17 2006

AYES - BRUNNER, KERNIGHAN, ~~MOSE~~, QUAN, BROOKS, ~~REID~~,  
CHANG, AND PRESIDENT DE LA FUENTE - 6

NOES - ~~0~~  
ABSENT - Reid - 1  
ABSTENTION - Nadel - 1

ATTEST:

  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California

# Exhibit A



119 Filbert Street  
Oakland, California  
94607

Tel: 510.451.2350  
Fax: 510.451.1735  
www.caleng.com

12 October 2006  
File: 061250.008

Mr. Michael Neary, P.E.  
Assistant Director  
Design & Construction Services Department  
City of Oakland Public Works Agency  
250 Frank Ogawa Plaza, Suite 4314  
Oakland, CA 94612-2033

**RE: Statement of Urgency  
McKillop Road Landslide  
McKillop Road and E 29<sup>th</sup> Avenue  
Oakland, California**

Dear Mr. Neary:

At the request of the Public Works Department, we are providing this letter as it pertains to the urgency of initiating the emergency road stabilization project for the McKillop Road landslide. Cal Engineering & Geology, Inc., has monitored the landslide and the City's public facilities since it manifested itself in mid to latter part of May 2006.

Following the initial manifestation of features where movement could be measured in inches, there was a rather abrupt progression of movement in the first and second week of June where movement features could be measured in feet to tens of feet. The movements were accompanied by an upslope regression of the headscarp that was characterized by grabens. These significant movements were accompanied by a gradual "necking" of the creek channel as the slide mass at the toe of the slope moved into the creek. At the top of the slope, the headscarp has migrated up to and is parallel to the outer edge of the sidewalk for a distance of about 35 feet. The vertical face along this segment of headscarp varies from about 6 to 12 feet and the headscarp face has locally raveled beneath the sidewalk.

Following the significant landslide displacements in the early part of June, the magnitude and rate of movement of the slide mass has decreased, but the movement has not stopped. The fact that the landslide mass continued to move slowly was of concern during the dry summer months. Now that the winter is looming upon us, there is significantly more concern about an acceleration of movement when the landslide mass is exposed to the winter rains. Because the slide mass is dilated with major cracks whose widths and depths can be measured in feet to tens of feet, there is significantly more

Statement of Urgency  
McKillop Road, Oakland, California  
12 October 2006

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opportunity for water to infiltrate into the slide mass and down to the failure zone. There is no doubt, whatsoever, that winter rainfall will cause landslide mass to advance further at a faster rate. The likelihood is high that advancement of the landslide mass could cause further regression of the headscarp and this would have a direct impact on the City of Oakland's public facilities, especially where the headscarp is already encroaching upon the road. If that occurs, access to the residences on McKillop Road by the residents or emergency services could be restricted or prohibited as the headscarp migrates into the roadway.

Because of our concerns for the ongoing movements, and the accelerated movements that will occur when the winter rains arrive, Cal Engineering & Geology, Inc., prepared an emergency road embankment stabilization designed to protect the City's roadway and facilities therein. Because the winter season is upon us and considering the contractor's anticipated construction schedule (up to 2-1/2 months), it is imperative that the emergency stabilization commence immediately.

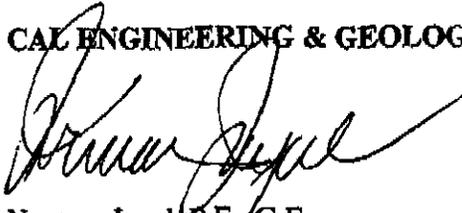
#### Closure

Our work has been completed in accordance with generally accepted civil and geotechnical engineering practices and procedures. This standard is in lieu of all other warranties either expressed or implied.

We trust that this letter provides the information you require at this time. If you have any questions regarding this letter, please contact us.

Sincerely,

**CAL ENGINEERING & GEOLOGY, INC.**



Norman Joyal, P.E., G.E.  
Associate Engineer