

OFFICE OF THE CITY CLERK
OAKLAND**OAKLAND CITY COUNCIL***F. Fair*

City Attorney

2006 JUL 27 AM 11: **RESOLUTION No. 80058 C.M.S.**

Introduced by Councilmember _____

**RESOLUTION APPROVING FORMATION OF THE OAKLAND AREA
GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) AND
APPOINTING THE CITY COUNCIL OF THE CITY OF OAKLAND AS THE
GHAD BOARD OF DIRECTORS**

WHEREAS, pursuant to the provisions of Section 26550 of the Public Resources Code, the City Council adopted Resolution No. 77524 declaring that the City Council is subject to the provisions of Division 17 (Sections 26500 et seq.) of the Public Resources Code, and forwarded a copy of Resolution No. 77524 to the State Controller; and

WHEREAS, on June 20, 2006, the City Council considered and adopted Resolution No. 79986 C.M.S. initiating the proceedings for the formation of the GHAD and set a hearing on the formation for July 18, 2006 at 7:00 p.m.; and

WHEREAS, notice of the hearing on the formation was given in accordance with the provisions of Public Resources Code Sections 26558 and 26561-63; and

WHEREAS, a public hearing before the City Council on the formation of the GHAD was held on July 18, 2006 at 7:00 p.m.; and

WHEREAS, at the time set for the hearing, no owner of real property within the proposed GHAD had made a written objection to its formation in accordance with the provisions of Public Resources Code Section 26564; and

WHEREAS, at the hearing, the owners of more than 50 percent of the assessed valuation of the real property within the proposed GHAD did not object to the GHAD's formation; the City Council closed the hearing; and

WHEREAS, upon adoption of this Resolution, the GHAD shall be immediately formed as a governmental district, a political subdivision of the State of California, governed in accordance with Public Resources Code Sections 26500, et seq., and a legal entity entirely distinct and separate from the City of Oakland; now, therefore be it

RESOLVED: The City Council approves and orders the formation of the Oakland Area Geologic Hazard Abatement District as described in the GHAD Plan of Control dated April 19, 2006; and be it

FURTHER RESOLVED: That in accordance with Public Resources Code Section 26567, the City Council appoints itself as the Board of Directors for the Oakland Area GHAD (GHAD Board); and be it

FURTHER RESOLVED: That in addition to all other legal requirements, the GHAD shall be subject to the following:

1. The GHAD shall defend, hold harmless, and indemnify the City of Oakland and its respective officers, agents, and employees (“Indemnified Parties”) and their insures against any and all liability, damages, claims, demands judgments, losses, (“Indemnified GHAD claims”) or other forms of legal or equitable relief related to the formation and operation (including, without limitation, maintenance of GHAD owned property) of a GHAD and in the case of the City Council members, actions taken by said members while acting as the GHAD Board. This indemnity shall include, without limitation, payment of litigation expenses associated with any action herein. The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the GHAD’s expense, in defense of any action specified herein. The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD of any claim, demand, or legal actions that may create a claim for indemnification. Within 90 days of the formation for the GHAD, the GHAD shall be required to enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail the terms and conditions of the GHAD’s indemnification obligations set forth herein. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified herein.
2. The GHAD shall obtain general liability insurance and directors’ insurance for the GHAD Board to the extent that the GHAD Board determines in its sole discretion that such insurance is available at commercially reasonable rates. In the event subsidence insurance becomes available, the GHAD also shall obtain such insurance provided that the GHAD Board determines that premiums for such insurance are a prudent expenditure of the GHAD’s financial resources.
3. The assessments authorized for the GHAD must be determined by the GHAD Board following a thorough financial analysis and must include adequate funding for the indemnity and insurance obligations set forth herein. The GHAD’s attorney and the City’s attorney shall also review the adequacy of the funding for the indemnity and insurance and any make recommendations regarding such funding.
4. The GHAD will be responsible for hiring its own staff (or contracting with non-City parties to perform such services), including all workers who will undertake operation, maintenance, replacement, repair and other activities of the GHAD, and no City employee, including employees of the City Attorney’s office shall perform such services for the GHAD facilities and improvements. Further, the City shall not fund or otherwise administer any of the GHAD’s operations, property or facilities; and be it

FURTHER RESOLVED: The City Council finds that the formation of the GHAD is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Public Resources Code Sections 21080(b)(4) and 26559 and directs staff to file a Notice of Exemption with the Alameda County Clerk; and be it

FURTHER RESOLVED: The Council determines that the GHAD shall be fully consistent with and comply with all conditions, requirements and other standards as set forth in the Conditions of

Approval for the Siena Hill Project (TTM7396) as approved by the City Planning Commission on June 1, 2005; and be it

FURTHER RESOLVED: This Resolution shall become effective immediately upon its passage and adoption; the GHAD shall become operational only after the parcels within the boundaries of the GHAD have been successfully assessed in accordance with Public Resources Code Section 26650 and Article XIII(D) of the California Constitution; and the GHAD Board intends to adopt separate Resolutions to initiate the establishment and authorization of an assessment on the real property included in the GHAD; and be it

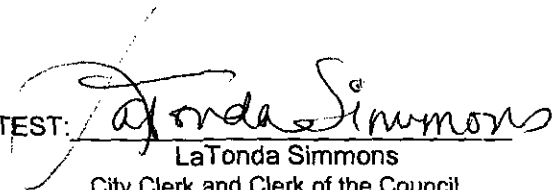
FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.; and be it

FURTHER RESOLVED, That, the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006, 20

PASSED BY THE FOLLOWING VOTE:

- AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE - 8
- NOES - 0
- ABSENT - 0
- ABSTENTION - 0

ATTEST: 
 LaTonda Simmons
 City Clerk and Clerk of the Council
 of the City of Oakland, California