APPLICATION MANAGEMENT FOR SEA LEVEL RISE – GEOLOGIC HAZARD ABATEMENT DISTRICTS

PREPARED FOR THE CALIFORNIA ASSOCIATION OF GEOLOGIC HAZARD ABATEMENT DISTRICTS

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I. INTRODUCTION

The California Association of GHADs prepared this document to address several issues concerning Geologic Hazard Abatement Districts ("GHADs"). First, the paper provides a brief overview of the GHAD law and the unique role a GHAD plays in addressing geologic hazards where such districts have been formed. Second, the paper discusses the advantages and benefits associated with GHADs. Third, the paper addresses the applicability of a GHAD to mitigate the potential effects of future sea-level rise.

II. GEOLOGIC HAZARD ABATEMENT DISTRICTS

Geologic Hazard Abatement Districts, or GHADs, were created in California in 1979 by the Beverly Act to enable local residents to collectively mitigate geological hazards which pose a threat to their properties. Statutes pertaining to GHADs are presented in California Public Resources Code Division 17. GHADs are designed to handle long-term abatement and maintenance of real property potentially threatened by geologic hazards.

When established, a GHAD is an independent political subdivision of the State. It is not an agency or instrument of a local agency, and therefore is not subject to control by a local agency. It is granted similar authority as other local agencies, including:

- Taxing ability
- Bonding ability
- Certain legal immunity
- Can sue and/or be sued
- May exercise eminent domain

A GHAD is intended to address the prevention, mitigation, abatement, and control of geologic hazards on designated land within its boundaries. For the purposes of a GHAD, a "geologic hazard" as defined in California Resources Code § 26507, "means an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement, or natural or unnatural movement of earth." Further, as a prudent landowner, a GHAD is able to acquire, construct, operate, manage, or maintain improvements on any land it specifically owns. There are no limits or requirements pertaining to size, number of units, or contiguous boundaries (i.e. a GHAD may contain numerous non-contiguous parcels).

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As required by the Beverly Act, a GHAD is governed by a Plan of Control (POC). The Beverly Act requires that a California Certified Engineering Geologist (CEG) prepare the POC. A typical POC may address the following.

- Boundary description, geotechnical database.
- Plans (including drainage and corrective grading).
- Criteria for GHAD involvement.
- Maintenance and monitoring plan.
- Prioritization of expenditures.
- Identification of Board structure (note: often the BOD is the legislative body which forms the GHAD).

In order to develop a POC, the CEG reviews previous or current data pertaining to site history, historic performance, inspections, surveys, engineering analyses, and conclusions with regard to geologic or geotechnical issues that may affect the site. Once reviewed, and after appropriate input from project team consultants, landowner(s), local agencies, and other project stakeholders, the report will be completed.

Once a GHAD is formed, it is typically financed through the collection of supplemental tax assessments. The revenue is usually split between an ongoing operations/maintenance fund and the accumulation of a reserve for less frequent major repair items. To meet the requirements of Proposition 218, the assessments are typically applied and collected in a uniform manner. A separate Engineer's Report is developed and serves as the basis for the operating budget. Funds collected by the GHAD remain within the GHAD and are not subject to transfer to another agency.

The following is a list of steps necessary to form a GHAD.

- The Applicant or agency prepares a Plan of Control. This is used throughout the process; attached to the formation petition.

- Legislative body (i.e., the City Council or Board of Supervisors) adopts a resolution declaring it will be subject to the GHAD law.

- Proceedings for formation are initiated by either a signed petition of at least 10 percent of real property owners within the proposed District or by resolution of the legislative body.

- The petition of formation is formally accepted by the legislative body at a noticed public hearing.

- The legislative body conducts a hearing after a 20-day notice to all property owners within the proposed GHAD boundary; formation may proceed if there is an absence of majority protest (by assessed value) at the hearing.

- Legislative body then decides within 60 days of the meeting whether to form the GHAD.

- If formation is ordered, the legislative body must select the GHAD Board of Directors (this is often the legislative body itself).

- In order to impose the GHAD assessment, the Proposition 218 process is applied.
  - An Engineer's Report that includes a budget is prepared; the report discusses the special benefit realized by the homeowners to be assessed.
  - The GHAD Board of Directors authorizes the assessment.
  - Following 45-day notice, a vote is held at a noticed public hearing. A majority vote based on assessed value is needed to approve the assessment. Public protest is allowed at the assessment hearing.
  - Authorization to levy the assessment is granted (typically 1 year). The assessment is typically indexed to CPI or CCI.
  - The levy is imposed (typically 1 to 3 years after) after the trigger is reached (usually Final Map or building permits). Any amount may be levied up to a maximum value equal to the approved assessment.
- Once the Property is eligible for acceptance (all conditions identified within the Plan of Control have been met), a notice period 30 to 60 days is granted. The owner addresses a repair "punch list", then the property is accepted.

III. ADVANTAGES OF GHADS

- GHADs increase long-term security of property values. They provide a means of managing property conditions, prevention, maintenance, and repairs.
- GHADs can carry out any activity typical of a prudent landowner on property owned by the GHAD.
- GHADs act as a form of insurance to provide a reserve for significant probable, yet unforeseen geologic issues.
- GHADs are also looked upon very favorably by lenders and governmental agencies.
- GHAD activities are exempt from LAFCO and CEQA.
- GHADs enjoy significant liability protection (immunity typical of other state political subdivisions).
- GHADs are typically administered in an independent, objective manner.
- Plan of Control minimizes cost uncertainty and protects budget line items.

IV. APPLICATIONS TO MITIGATE CONSEQUENCES OF SEA-LEVEL RISE

As discussed above, a "geologic hazard" as defined in the Public Resources Code includes soil erosion or natural or unnatural movement of earth. Left unchecked, flooding can obviously have serious consequences of erosion or sediment deposition in low-lying areas. Additionally, typical wave action on waterside flood control structures, such as seawalls, levees, or berms, may affect the structural integrity of these structures, reducing the efficacy of these facilities, or even leading to catastrophic failure.

A GHAD provides a superior alternative for the maintenance of flood control structures. GHADs have many advantages in dealing with geologic hazards. A GHAD focuses on the prevention of damage resulting from earth movement (including flooding and its effects) by identifying and monitoring potential hazards and undertaking appropriate improvements. GHADs have the ability to respond to both routine and unforeseen events quickly and efficiently with technical and financial resources.

In addition to ongoing maintenance activities, GHADs provide an attractive means for future renovations or improvements to flood control structures, including future alterations that may be necessary due to sea-level rise. Predictions of both the rate and magnitude by which sea-level rise will occur in the future vary widely; however, there appears to be a consensus within the scientific community that some degree of sea-level rise will affect properties adjacent to San Francisco Bay. While today's predictions used for the planning and design of bayside improvements may either underestimate or overestimate actual future sea-level rise, GHADs efficiently mitigate the consequences of this guesswork. By accumulating a reserve for future maintenance and rehabilitation, a GHAD can provide the financial resources necessary for potential future expansion of flood control structures. Further, because of the relative safety of GHAD revenues (GHADs are typically financed through the collection of supplemental tax assessments), GHADs can borrow from lenders or issue bonds with very attractive credit terms.

V. CONCLUSION

Because of their legal status, focus on preventive measures, and proven effective use for 30 years, GHADs have become a very important means to mitigate a wide range of geologic hazards. Additionally, if used for the maintenance and or renovation of bayside flood control structures, GHADs offer an effective means to mitigate the effects of future sea-level rise.