

BYLAWS
OF
SILVER CREEK VALLEY COUNTRY CLUB GEOLOGIC HAZARD ABATEMENT DISTRICT

ARTICLE I

OFFICE

Section 1. Office.

The office of the Silver Creek Valley Country Club Geologic Hazard Abatement District (the "GHAD") shall be located at the office of the General Manager, 24665 Glenwood Drive, Los Gatos, California, 95030. The Board of Directors may change the location of this office from time to time. Any such change shall be noted on these Bylaws by the Secretary, opposite this section, or this section may be amended to state the new location.

ARTICLE II

OBJECTIVES AND PURPOSES

This GHAD has been formed pursuant to the provisions of Public Resources Code Section 26500 *et. seq.* (the "GHAD Law") and City Council of San Jose Resolution No. 63609 which approved the formation of the GHAD. The specific purpose of this GHAD is to prevent, mitigate, abate and control geologic hazards within the boundaries of the GHAD and otherwise to exercise such powers and perform such functions as authorized by the GHAD law.

ARTICLE III

BOARD OF DIRECTORS

Section 1. General Powers.

The powers of the GHAD are vested in the Board of Directors which shall exclusively exercise the legislative powers and perform the legislative functions of the GHAD. The activities and affairs of the GHAD shall be managed and all powers shall be exercised by or under the direction of the Board of Directors. The Board of Directors may delegate the management of the day-to-day operations of the business of the GHAD and the powers of the GHAD to any officer of the GHAD, as may be appropriate in the circumstances, provided that the activities and affairs of the GHAD shall be managed and all powers shall be exercised under the ultimate direction of the Board of Directors.

Section 2. Specific Powers.

Without prejudice to their general powers and subject to any limitations contained in the GHAD Law, these Bylaws or other applicable law, the Board of Directors shall have the power to:

- (a) Select and remove the officers of the GHAD; prescribe any powers and duties for them that are consistent with the GHAD Law and these Bylaws; and fix their compensation, if any, within the salary limits set forth in the annual budgets of the GHAD.
- (b) Change the location of the GHAD office within the City of San Jose.
- (c) Adopt, make and use a seal and alter the form of the seal.
- (d) Borrow money, incur indebtedness, and accept financial or other assistance on behalf of the GHAD, and cause to be executed and delivered for the GHAD's purposes, in GHAD's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.
- (e) Adopt, amend and repeal bylaws.
- (f) Levy and collect assessments pursuant to the GHAD Law.
- (g) Exercise all powers and rights conferred on the Board by the GHAD and other provisions of law.

Section 3. Number of Directors.

The authorized number of directors of the corporation shall be five (5).

Section 4. Designation, Election and Term of Office.

All of the initial directors shall be designated by the City Council of the City of San Jose in accordance with the applicable provisions of the GHAD law for the maximum term provided therein. After the term of the initial directors expires, directors shall be elected in accordance with and pursuant to the applicable provisions of the GHAD law and the Uniform District Election Law (commencing with Section 23500 of the Elections Code)(the "Election Law"). The term of office of each subsequent director of the GHAD shall be four (4) years.

Section 5. Qualifications of Directors.

Each director, or the entity on behalf of which he or she acts as a director, shall own land within the GHAD and shall possess such other qualifications as imposed or required under the GHAD Law, the Election Law, and other applicable law. Directors are not required, however, to be residents of the GHAD.

Section 6. Vacancies and Removal.

(a) **Events Causing Vacancy.** A vacancy in the Board of Directors shall be deemed to exist on the occurrence of the following: (i) the death, resignation, or removal of any director; (ii) the declaration by the Board of Directors of a vacancy in the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or has been found by a final order or judgment of any court to have breached any duty under law dealing with standards of conduct for a director; or (iii) an increase in the authorized number of directors.

(b) **Removal.** The Board of Directors, by affirmative vote of a majority of the directors then in office, may remove any director on the initial Board of Directors with or without cause at any regular or special meeting.

(c) **Filling Vacancies.** Vacancies in the initial Board of Directors shall be filled by the vote of a majority of the directors present at a meeting at which a quorum is present, or if the number of directors then in office is less than a quorum, (a) by the vote of a majority of the directors then in office at a duly held meeting, or (b) by a sole remaining director. Each director so elected by the remaining directors shall hold office for the balance of the term of the initial Board of Directors and until his or her successor is elected. Vacancies in subsequent Boards of Directors shall be filled by the vote of a majority of the directors present at a meeting at which a quorum is present, or if the number of directors then in office is less than a quorum, (a) by the vote of a majority of the directors then in office at a duly held meeting, or (b) by a sole remaining director. Each director so elected by the remaining directors shall hold office for the balance of the term of the Board of Directors on which such elected director will serve and until his or her successor is elected.

(d) **Resignation.** Any director may resign effective upon giving written notice to the Chair of the Board of Directors or to the Board of Directors of the GHAD, unless the notice specifies a later time for the effectiveness of the resignation. If the resignation is effective at a future time, the successor may be designated to take office when the resignation becomes effective.

Section 7. Meetings.

Meetings, including notices of meetings, shall be governed by and subject to all applicable provisions of the GHAD Law and the Ralph M. Brown Act (commencing with Section 54950 of the Government Code) (the "Brown Act"). The parliamentary rules of procedure set forth in Robert's Rules of Order shall be followed by the GHAD at all meetings of the GHAD. The Board of Directors shall hold at least one regular meeting each year at such date, time and place as provided by resolution of the Board of Directors, for the purpose of appointing officers, if necessary, and for the transaction of other business.

Section 8. Action at a Meeting: Quorum and Required Vote.

The presence of a majority of the authorized number of directors at a meeting of the Board of Directors shall constitute a quorum for the transaction of business, except as otherwise provided in these Bylaws or applicable law. Every act done or decision made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number, or the same number after disqualifying one or

more directors from voting, is required by these Bylaws, the GHAD Law or other applicable law. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, subject to any applicable requirements for approval by a greater number or a disinterested majority.

Section 9. Reimbursement of Expenses.

Directors and members of committees may be reimbursed for reasonable expenses, as may be fixed or determined by resolution of the Board of Directors.

ARTICLE IV

COMMITTEES

Section 1. Advisory Committees.

The Board of Directors may, by resolution, designate one or more committees whose members need not be composed entirely of Board members to serve at the pleasure of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Such committees shall be advisory only with no authority of the Board.

Section 2. Meetings and Actions of Committees.

Meetings of all committees, including notices of such meetings, shall be governed by and subject to all applicable provisions of the GHAD Law and the Brown Act. Actions of all committees shall be governed by, and taken in accordance with, the provisions of Section 8 of Article III of these Bylaws concerning actions of directors, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors. The Board of Directors may adopt rules not inconsistent with the provisions of these Bylaws for the governance of any committee.

ARTICLE V

OFFICERS

Section 1. Officers.

(a) **Officers.** The officers of the GHAD shall consist of the Chair and Vice-Chair of the Board of Directors, and the General Manager, Clerk, and Treasurer, and each of them shall be appointed by the Board of Directors. The GHAD may also have such other officers as may be appointed by the Board of Directors, or with authorization from the Board of Directors by the General Manager or some other officer. Any two or more offices may be held by the same person, except that neither the Clerk nor the Treasurer may serve concurrently as either the General Manager or the Chair or Vice-Chair of the Board. The Board of Directors may appoint, and may empower the General Manager or another officer to appoint, such other officers as the activities

of the GHAD may require, each of whom shall have such authority and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine.

(b) **Appointment of Officers and Terms of Office.** The officers of the GHAD shall be chosen by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of any officer under any written contract of employment between any such person and the GHAD.

(c) **Removal of Officers.** Subject to rights, if any, under any written contract of employment, an officer may be removed with or without cause, by the Board of Directors at any regular or special meeting of the Board, or, except in the case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal has been conferred by the Board of Directors.

(d) **Vacancies in Office.** Upon the removal, resignation, death, or incapacity of any officer, the Board of Directors, or the General Manager or another officer in cases where the General Manager or the other officer has been vested by the Board of Directors with power to appoint, may declare such office vacant and fill such vacancy.

(e) **Resignation of Officers.** Any officer may resign at any time by giving written notice to the Chair of the Board or the Board of Directors without prejudice, however, to the rights, if any, of the GHAD under any written contract to which such officer is a party. Any resignation shall take effect on the date of the receipt of such notice or at any later time specified in the resignation; and, unless otherwise specified in the resignation, the acceptance of the resignation shall not be necessary to make it effective.

(f) **Compensation.** Any salary or other compensation of the officers shall be fixed from time to time by resolution of or in any other manner determined by the Board of Directors.

Section 2. Duties of the Chair of the Board.

The Chair of the Board shall, when present, preside at all meetings of the Board of Directors and shall perform all the duties commonly incident to that office. The Chair of the Board shall have authority to execute in the name of the corporation all bonds, contracts, deeds, leases, and other written instruments to be executed by the GHAD (except when by law the signature of another officer is required), and shall perform such other duties as the Board of Directors may from time to time determine.

Section 3. Duties of the Vice-Chair of the Board.

The Vice-Chair of the Board may assume and perform the duties of the Chair of the Board in the absence or disability of the Chair of the Board, including presiding at all meetings of the Board of Directors, and when so acting shall have all the powers of and be subject to all the restrictions upon the Chair of the Board. The Vice-Chair of the Board shall have such titles, perform such other duties, and have such other powers as the Board of Directors or the Chair of the Board shall designate from time to time.

Section 4. Duties of the General Manager.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chair of the Board, the General Manager shall be the general manager and chief executive officer of the GHAD and shall perform all the duties commonly incident to that office and such other duties as the Board of Directors may from time to time determine. The General Manager shall be responsible to the Board of Directors, shall see that the Board is advised on all significant matters of the GHAD's business, and shall see that all orders, resolutions and policies of the Board are carried into effect. The General Manager shall be empowered to act, speak for, or otherwise represent the GHAD between meetings of the Board within the parameters of such policies and purposes established by the Board and otherwise as set forth in the GHAD Law and these Bylaws.

Section 5. Duties of the Clerk.

(a) **Book of Minutes.** The Clerk shall record or cause to be recorded, and shall keep or cause to be kept, at the GHAD office and such other place as the Board of Directors may order, a book of minutes of resolutions and other actions taken at all meetings of directors and committees, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of the directors, committee members and officers present at such meetings, and the proceedings of such meetings. The Clerk shall also execute attestations of all duly held meetings of the GHAD.

(b) **Notices, Seal, and Other Duties.** The Clerk shall give, or cause to be given, notice of all the meetings of the Board of Directors and of the committees of this GHAD required by the Brown Act, the GHAD Law, other applicable law or by these Bylaws to be given, shall keep the seal of the GHAD (if any) in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.

Section 6. Duties of the Treasurer.

(a) **Books of Account.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts for the GHAD, including books and accounts of its revenues, expenses, reserves, liabilities, disbursements and activities, and other matters customarily included in financial statements.

(b) **Deposit and Disbursement of Money and Valuables.** The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the GHAD with such depositaries as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the GHAD as may be ordered by the Board of Directors, shall render to the General Manager and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the GHAD, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) **Bond.** If required by the Board of Directors, the Treasurer shall give the GHAD a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of the Treasurer's office and for restoration to the GHAD of all its books, papers, vouchers, money, and other property of every kind in the Treasurer's possession or

under the Treasurer's control on the Treasurer's death, resignation, retirement, or removal from office.

ARTICLE VI

INDEMNIFICATION OF DIRECTORS, OFFICERS AND AGENTS

To the fullest extent permitted under law, the GHAD shall indemnify any person who was or is a party or is threatened to be made a party to any action or proceeding by reason of the fact that such person is or was a director or officer of the GHAD, and may indemnify any person who was or is a party or is threatened to be made a party to any action or proceeding by reason of the fact that such person is or was an agent of the GHAD, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding. The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled, and shall continue as to a person who has ceased to be a director, officer or an agent of the GHAD and shall inure to the benefit of the heirs, executors, and administrators of such a person.

ARTICLE VII

EXECUTION OF GHAD INSTRUMENTS

The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers or other person or persons, to execute any instrument or document, or to sign the GHAD name without limitation, except when otherwise provided by law, and such execution or signature shall be binding upon the GHAD.

Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts of the GHAD, promissory notes, deeds of trust, mortgages, and other evidences of indebtedness of the GHAD, and other GHAD instruments or documents shall be executed, signed, or endorsed by the Chair of the Board and by the Clerk or Treasurer.

All checks and drafts drawn on banks or other depositaries on funds to the credit of the GHAD, or in special accounts of the GHAD, shall be signed by such person or persons as the Board of Directors shall authorize to do so.

ARTICLE VIII

MAINTENANCE AND INSPECTION OF GHAD RECORDS

Section 1. Maintenance and Inspection of Bylaws and Resolutions.

The GHAD shall keep at its office, the original or a copy of its Bylaws as amended to date and its resolutions, which shall be open to inspection by the directors at all reasonable times during office hours.

Section 2. Maintenance and Inspection of Other GHAD Records.

The accounting books, records, and minutes of proceedings of the Board of Directors and any committees of the GHAD shall be kept at such place or places designated by the Board of Directors, or, in the absence of such designation, at the office of the GHAD. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed, or printed form.

Every director shall have the right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the GHAD. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts of documents.

ARTICLE IX

AMENDMENTS

Notwithstanding any provision in these Bylaws to the contrary, no amendment of these Bylaws shall be made that results in the contravention of any provision of the GHAD Law or any other applicable law, and any such amendment shall be null and void. Article II, governing the GHAD's purposes, Section 3 of Article III, establishing the authorized number of directors, and Section 4 of Article III, governing designation, election and term of office of directors, may not be amended unless the GHAD Law or other applicable law requires or permits such amendment. Bylaws other than those fixing or changing the purposes of the GHAD or the authorized number of directors, governing the designation, election, terms or removal of directors, or amending this Article, may be adopted, amended, or repealed by a majority vote of the entire Board of Directors. Any amendment of Section 6 of Article III, governing vacancies and removal of directors, or the third or fourth sentence of this Article IX shall require a two-thirds (2/3) majority vote of the entire Board of Directors.

ARTICLE X

CONSTRUCTION AND DEFINITIONS

Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the GHAD Law as amended from time to time shall govern the construction of these Bylaws. Without limiting the generality of the foregoing, the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural number includes the singular, and the term "person" includes a corporation as well as a natural person.

ARTICLE XI

MISCELLANEOUS

Section 1. Conflict.

In the event of any conflict between any of the provisions of these Bylaws and any provisions of the GHAD Law or other applicable law, the provisions of the GHAD Law or other applicable law shall govern and control.

Section 2. Severability.

In the event any provision of these Bylaws shall be declared by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from these Bylaws, and the remaining provisions hereof shall remain in full force and effect, as fully as if such invalid, illegal or unenforceable provisions had never been part of these Bylaws.


ARTICLE XII

CERTIFICATE OF CLERK

I, the undersigned, certify that I am the currently elected and acting Clerk of the Silver Creek Valley Country Club Geologic Hazard Abatement District, a political subdivision of the State of California, and the above Bylaws, consisting of 9 pages, are the Bylaws of this GHAD as adopted at a meeting of the Board of Directors held on June 11, 1992.

Dated: June 11, 1992

Executed at San Jose



Clerk of the Silver Creek Valley Country Club
Geologic Hazard Abatement District