



LANDSLIDE REPAIR FOUNDATION

FINANCIAL STATEMENTS

June 30, 2009



LANDSLIDE REPAIR FOUNDATION

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DAMITZ
BROOKS
NIGHTINGALE
TURNER
MORRISSET



INDEPENDENT AUDITOR'S REPORT

Board of Directors
Landslide Repair Foundation

We have audited the accompanying statement of financial position of Landslide Repair Foundation (the Organization) as of June 30, 2009, and the related statements of activity and cash flows for the year then ended. These financial statements are the responsibility of the Organization's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Organization as of June 30, 2009, the changes in its net assets and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

Damitz, Brooks, Nightingale, Turner & Morrisset

Damitz, Brooks, Nightingale,
Turner & Morrisset
March 10, 2010

LANDSLIDE REPAIR FOUNDATION
Statement of Financial Position
June 30, 2009

<i>Assets</i>	<u>Temporarily Restricted</u>
Cash	\$ 3,171
Prepays and other current assets	16,369
Deposits	41,600
Investment income receivable	398,409
Receivable from WCC LLP, net of allowance	510,359
Investments	<u>35,192,343</u>
<i>Total assets</i>	<u><u>\$ 36,162,251</u></u>
<i>Liabilities and Net Assets</i>	
<i>Liabilities</i>	
Accounts payable	\$ 1,376,581
Retention payable	<u>736,887</u>
<i>Total liabilities</i>	2,113,468
<i>Net Assets - Temporarily Restricted</i>	<u>34,048,783</u>
	<u><u>\$ 36,162,251</u></u>

LANDSLIDE REPAIR FOUNDATION
Statement of Activity
Year Ended June 30, 2009

	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Total</u>
<i>Revenues, Gains and Other Support</i>			
Investment income	\$ -	\$ 915,334	\$ 915,334
Unrealized gain on investments	-	184,916	184,916
Net assets released from restrictions	<u>13,021,465</u>	<u>(13,021,465)</u>	<u>-</u>
<i>Total revenues, gains and other support</i>	<u>13,021,465</u>	<u>(11,921,215)</u>	<u>1,100,250</u>
<i>Expenses</i>			
Landslide repair expenses	12,896,757	-	12,896,757
Professional services	113,296	-	113,296
Administrative expenses	<u>11,412</u>	<u>-</u>	<u>11,412</u>
<i>Total expenses</i>	<u>13,021,465</u>	<u>-</u>	<u>13,021,465</u>
<i>Decrease in net assets</i>	-	(11,921,215)	(11,921,215)
<i>Net assets, beginning of year</i>	<u>-</u>	<u>46,359,770</u>	<u>46,359,770</u>
Prior period adjustment		(389,772)	(389,772)
<i>Net assets, end of year</i>	<u>\$ -</u>	<u>\$ 34,048,783</u>	<u>\$ 34,048,783</u>

LANDSLIDE REPAIR FOUNDATION

Statement of Cash Flows

Year Ended June 30, 2009

<i>Cash flows from operating activities</i>	
Decrease in net assets	\$ (11,921,215)
Adjustments to reconcile decrease in net assets to net cash provided by operating activities	
Unrealized gain on investments	(184,916)
Amortization of premium on investments	704,911
(Increase) decrease in:	
Investment income receivable	57,855
Prepaid assets	34,468
Deposits	(27,600)
Receivable from WCC LLP	(25,997)
Increase (decrease) in:	
Accounts payable	(141,762)
Retention payable	347,115
	<hr/>
<i>Net cash used by operating activities</i>	<u>(11,157,141)</u>
<i>Cash flows from investing activities</i>	
Purchases of investments	(28,186,323)
Proceeds from sale of investments	39,239,760
	<hr/>
<i>Net cash provided by investing activities</i>	<u>11,053,437</u>
	<hr/>
<i>Net decrease in cash</i>	(103,704)
<i>Cash, beginning of year</i>	<u>106,875</u>
<i>Cash, end of year</i>	<u><u>\$ 3,171</u></u>

The accompanying notes are an integral part of these financial statements.

LANDSLIDE REPAIR FOUNDATION

Notes to Financial Statements

June 30, 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

This summary of significant accounting policies of Landslide Repair Foundation (the Organization) is presented to assist in understanding the Organization's financial statements. The financial statements and notes are representations of the Organization's management, who is responsible for their integrity and objectivity. These accounting policies conform to accounting principles generally accepted in the United States of America and have been consistently applied in the preparation of the financial statements.

Nature of Organization and Formation of Organization

Residents living on properties located in Sycamore Canyon (Plaintiffs), in the City and County of Santa Barbara, who were affected by a landslide which caused closure of a section of California State Highway 144, filed a lawsuit against the State of California (acting by and through the Department of Transportation or CALTRANS, hereafter "the State"). Plaintiffs and the State entered into an agreement effective April 14, 2006 for complete and final satisfaction of all past and future claims for compensation, damages, injuries and losses alleged by Plaintiffs (Agreement). As part of the Agreement, the State paid \$50,000,000 (Landslide Repair Funds) to fund a repair of the subject landslide (Repair). Responsibility for the Repair was given to a corporation formed by the Plaintiffs as required by the Agreement.

Pursuant to the Agreement, the State conveyed title to the Organization of certain parcels of property located on the subject landslide property. The Organization is responsible for all taxes and maintenance of this property. The State performed an appraisal of this property prior to conveyance, and determined the property had nominal value, and therefore no value has been recorded for this property in the financial statements.

On July 18, 2006, the Plaintiffs' initially formed a corporation named Sycamore Canyon Landslide Repair, Inc. (SCLR). The corporation was formed under §501(c)(4) of the Internal Revenue Code (IRC) as a mutual benefit corporation. The \$50,000,000 contribution was deposited in an SCLR account. SCLR entered into certain contracts and procured certain work product related to the design, construction and repair of the landslide (such contracts and the benefit of such work product collectively, the "Contracts"), and spent a portion of the Landslide Repair Funds to pay the costs of such work (the Repair Expenditures).

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

In early 2007, it was determined the Landslide Repair Funds were intended to be contributed to a nonprofit public benefit corporation organized and operated as an organization described in §501(c)(3) of the Internal Revenue Code (IRC). To accomplish this objective, on June 24, 2007, Landslide Repair Foundation (the Organization) was formed as a public benefit corporation. The Organization received its tax exempt status under §501(c)(3) of the IRC in October 2008.

Effective June 26, 2007, the SCLR formation was rescinded and the Landslide Repair Funds and all of the rights under the Contracts (including repair expenditures and investment transactions) were contributed to the Organization.

The Organization's mission is to oversee the Repair and to maintain the Organization during the Repair period. All of the settlement funds, including investment earnings, are to be used by the Organization to provide a public service by designing, constructing and repairing the subject landslide (located adjacent to Sycamore Canyon Road in Montecito, California - a.k.a. California State Highway 144) and make the road available for public use and as an emergency escape route in the event of wildfire. After completion of the Repair, the Organization will be responsible for implementing all decisions related to maintenance and monitoring of the Repair property. No obligations or liability will inure to the State for such responsibility.

Financial Statement Presentation

Accounting principles generally accepted in the United States of America (GAAP) require that the Organization report information about its financial position and activities in three classes of net assets: unrestricted, temporarily restricted, and permanently restricted. The Organization's assets are all temporarily restricted. When assets are expended for repair and Organization administrative purposes, the restrictions are satisfied and the temporarily restricted net assets are reclassified to unrestricted net assets and reported in the Statement of Activity as net assets released from restrictions. The Organization has no permanently restricted net assets. Interest, dividends and realized and unrealized gains or losses recognized on such assets are reported as an increase or decrease to temporarily restricted net assets.

Cash Flow Information

For purposes of the statement of cash flows, the Organization considers all short-term investments with an original maturity of three months or less to be cash equivalents. The cash equivalents held for investment all have original maturities less than six months.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

Investments

GAAP requires that nonprofit organizations report certain investments at fair value. In accordance with that guidance, the Organization accounts for its marketable equity securities at fair value. Information about the unrealized gains and losses are discussed in Note 2 and information about the fair value of investments is discussed in Note 3.

As of June 30, 2009, investments in government securities through government sponsored enterprises (GSEs) consist of Federal Home Loan Bank (FHLB), Federal Home Loan Mortgage Corporation (Fannie Mac or FHLMC), and Federal National Mortgage Association (Fannie Mae or FNMA) investments.

As of September 7, 2008, FHLMC and FNMA were placed under the conservatorship of the federal government via the Federal Housing Finance Agency (FHFA). Under the conservatorship agreement, the federal government (through the United States Treasury) was issued equity equal to approximately 80% of these two GSE's as of that date, and they have the authority to advance funds to stabilize these GSEs.

Tax Exempt Status

The Organization is organized to be a tax exempt organization under §501(c)(3) of the Internal Revenue Code and §23701(d) of the California Revenue and Taxation Code.

In July 2006, the Financial Accounting Standards Board (FASB) issued FASB Interpretation Number 48, *Accounting for Uncertainty in Income Taxes: an interpretation of FASB Statement No. 109* (FIN 48). FIN 48 establishes the criterion that an individual tax position has to meet for some or all of the benefits of that position to be recognized in the Organization's financial statements. FIN 48 is applied to all tax positions for which the statute of limitations remains open. Only tax positions that meet the more-likely-than-not recognition threshold at the adoption date are recognized or continue to be recognized. FIN 48 was effective for fiscal years beginning after December 15, 2007. The Foundation has completed its evaluation of the impact of its financial statements of adopting FIN 48, and as a result, the adoption of FIN 48 did not materially impact the Organization's financial position, changes in net assets, or its disclosures.

Use of Estimates

Financial statements prepared in accordance with accounting principles generally accepted in the United States of America require management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results may differ from those estimates.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Cont.)

Fair Value Measurements

On July 1, 2008, the Foundation adopted the provisions of Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* (SFAS 157), for fair value measurements of financial assets and financial liabilities, and for fair value measurements of non-financial items that are recognized and disclosed at fair value in the financial statements on a recurring basis (Note 2). SFAS 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

FASB Staff Position 157-2, *Effective Date of FASB Statement No. 157*, delays the effective date of SFAS 157 until fiscal year beginning after November 15, 2008 for all non-financial assets and non-financial liabilities that are recognized or disclosed at fair value in the financial statements on a non-recurring basis. The Organization will be required to apply these provisions beginning on July 1, 2009, and is in the process of evaluating their impact.

SFAS 157 establishes a three-level fair value hierarchy that describes the inputs that are used to measure the fair values of respective assets and liabilities:

- Level I – Quoted prices are available in active markets for identical investments as of the reporting date.
- Level II – Pricing inputs, including broker quotes, are generally those other than exchange quoted prices in active markets, which are either directly or indirectly observable as of the reporting date, and fair value is determined through the use of models or other valuation methodologies.
- Level III – Pricing inputs are unobservable for the investment and include situations where there is little, if any, market activity for the investment. The inputs into the determination of fair value require significant management judgment or estimation. Investments that are included in this category generally include privately held investments and partnership interests.

The asset's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

Following is a description of the valuation methodologies used for assets measured at fair value.

Cash: Valued at face value (Level 1)

Cash Equivalents, Corporate Bonds and Notes, and US Government Securities: Valued utilizing benchmark yields, reported trades or broker dealer quotes. (Level 2)

2. INVESTMENTS

As of June 30, 2009, investments are all temporarily restricted and consist of the following:

June 30, 2009	Cost	Market	Excess (Deficit) of Fair Value over Cost
Cash equivalents	\$ 3,300,785	\$ 3,288,447	\$ (12,338)
Corporate bonds and notes	3,342,938	3,349,042	6,104
US Government securities	28,554,110	28,554,854	744
	<u>\$ 35,197,883</u>	<u>\$ 35,192,343</u>	<u>\$ (5,490)</u>

3. FAIR VALUE MEASUREMENTS

The following sets forth by level, within the fair value hierarchy, the plan's assets and liabilities at fair value as of June 30, 2009:

	Fair Value (Level I)	Fair Value (Level II)
Cash	\$ 3,171	\$ -
Cash equivalents	-	3,288,447
Corporate bonds and notes	-	3,349,042
US Government securities	-	28,554,854
	<u>\$ 3,171</u>	<u>\$ 35,192,343</u>

No assets have been classified as Level III.

4. INVESTMENT INCOME RECEIVABLE

The investment income receivable of approximately \$400,000 represents accrued bond interest for cash equivalents, corporate bonds and notes, and US government securities.

5. RECEIVABLE FROM WCC LLP

Receivable from WCC LLP, an unrelated party, consists of costs incurred during the time period prior to July 18, 2006. These costs were paid to WCC LLP from the Landslide Repair Funds. The balance of \$510,359 consists of the principal amount of \$585,511, total accrued interest of \$74,848, less an allowance of \$150,000 for the estimated uncollectible portion of the receivable at June 30, 2009. Simple interest has been accrued monthly on the outstanding principal balance at a rate of 4.44%. WCC LLP has disputed payment of this receivable; consequently, the Organization and WCC LLP are pursuing legal recourse to resolve the dispute. In the event of an unfavorable outcome to the litigation, the Organization could be liable for WCC LLP's attorney's fees and costs, which can not be estimated at this time.

6. FUNCTIONAL EXPENSES

Direct expenses are charged to the appropriate program or supporting function. Functional expenses are detailed as follows:

Organization administration	\$ 124,708
Landslide repair program	<u>12,896,757</u>
	<u>\$ 13,021,465</u>

7. CONCENTRATIONS OF CREDIT RISK

Financial instruments that potentially subject the Organization to concentrations of credit risk consist of government securities and cash and cash equivalents. As of June 30, 2009, all of the Organization's cash and cash equivalents were maintained in a broker-dealer account.

Investments held in Securities Investor Protection Corporation (SIPC) broker-dealer accounts are insured up to \$500,000 (including cash and cash equivalents that are insured up to \$100,000). As of June 30, 2009, cash and cash equivalents in the broker-dealer account insured by SIPC exceeded the \$100,000 cash investments maximum. Uninsured restricted cash and cash equivalents at June 30, 2009 totaled approximately \$1,810,000.

The Organization's investments are exposed to various risks, such as interest rate, market and credit. All of the Organization's investments are invested in United States of America government sponsored enterprises including FHLB, FHLMC, and FNMA (See Note 1).

8. AGREEMENT TERMS AND REQUIREMENTS

The Agreement, which specifies the Organization's responsibility for the design, construction, and all matters associated with the Repair, also states the Organization has no obligations or duties which inure to the State as to the Repair. Additionally, any portion of the original \$50 million in funds contributed to the Organization in August 2006 (pursuant to the Agreement) that are not required for completion of the Repair will be divided equally between the Organization and the State, with the State's half share, to be returned to the State at the completion of the Repair, or five (5) years after execution of the Agreement, whichever is earlier.

At this time, it is not possible to estimate if there will be any unspent Landslide Repair Funds.

9. SUBSEQUENT EVENTS

Management has evaluated subsequent events through March 10, 2010, the date of the financial statements were available to be issued.

10. PRIOR PERIOD ADJUSTMENT

The net assets at the beginning of the year were restated due to an error in the way that the Organization recorded accounts payable for retention. Previously, the Organization did not account for accounts payable for retention and resulted in an understatement of the liability. The effect of this error was a decrease in the beginning of year net assets (as of July 1, 2008) of \$389,772.