




# Costa Mesa Sanitary District

....an Independent Special District

## Memorandum

**To:** Board of Directors

**Via:** Scott Carroll, General Manager 

**From:** Rob Hamers, District Engineer

**Date:** May 26, 2016

**Subject:** **1527 Newport Blvd, 132, 134, 140 Industrial Way Tract No. 17501, Tract No. 17554 - Acceptance of Improvements**

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### Summary

Construction of Costa Mesa Sanitary District (CMSD) sewer improvements by a private developer was completed in 2014 and it is appropriate for the District to accept the improvements and exonerate bonds. In keeping with District policy, the on-site sewer improvements for the tracts are private, however, in order to provide sewer to the development, one section of public sewer had to be constructed. The delay in accepting the improvements is due to selling the residences in phases.

In order to insure integrity of the sewer being accepted by the District, the developer televised the sewer main and provided the video to the District. The District Engineer viewed the video and confirmed the line was properly installed.

### Staff Recommendation

That the Board of Directors approves the following action:

1. Accept the sewer improvements, including from MH #9 to MH #6 consisting of two sewer manholes and approximately 93 linear feet of 8" VCP sewer in the Newport Blvd frontage road, plus MH#10 on Industrial way.
2. Exonerate Labor and Material Bond and exonerate Faithful Performance Bond
3. Have the District Clerk prepare a minute excerpt for the developer reflecting Board action.

### Analysis

The project is a 60-unit residential development at the intersection of the Newport Blvd frontage road and Industrial Way in Costa Mesa. The developer connected to existing



CMSD sewers in both Industrial Way and in the Newport Blvd frontage road. The existing sewer in the frontage road had to be extended to reach the property frontage and this is the portion that is being accepted by the District along with the new manhole constructed on Industrial Way.

### **Strategic Plan Element & Goal**

This item complies with Strategic Plan Element 1.0, *Sewer Infrastructure* and Goal No. 1.4 *System Wide Sewer Replacement and Repair Program*.

### **Legal Review**

The Attorney for the District prepared the private developer bond forms, reviewed the bonds that were submitted, and found them to be acceptable.

### **Environmental Review**

The addition of 93 linear feet and three sewer manholes to the District's system is categorically exempt under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et. seq.) under Section 15301 as a "Class 1" "minor alteration of existing public or private structures", as further described in Section (b) as "Existing facilities of both investor and publicly-owned utilities used to provide .... sewerage ...".

### **Financial Review**

Staff estimates it will take approximately one hour to clean 93 feet pipeline annually at a cost of \$155. The cost includes salaries and benefits for a two man cleaning crew along with equipment costs. There is adequate money in the Wastewater Budget for this additional cost.

The new manholes are made of precast concrete that have a life expectancy of 80 years. Because the manholes are made of precast concrete, there is minimal maintenance to the manholes other than replacing worn out rings and manhole covers.

### **Public Notice Process**

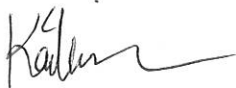
Copies of this report are on file and will be included with the complete agenda packet for the May 26, 2016 Board of Directors regular meeting at District Headquarters and posted on the District's website.

### **Alternative Actions**

1. Direct staff to report back with more information.

Attachment: Faithful Performance Bond

Reviewed by:



Kaitlin Tran  
Senior Accountant

FAITHFUL PERFORMANCE BOND

BOND NO. 912-032

Premium: \$412.00

**COSTA MESA SANITARY DISTRICT  
FAITHFUL PERFORMANCE BOND  
(Private Contract)**

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, COSTA MESA SANITARY DISTRICT, a California sanitary district, by General Regulations of the Board of Directors, adopted as District Operations Code Section 7.03.030, requires that a permit be obtained to make a sewer connection and requires that the Permittee comply with District's application process which requires a performance bond guaranteeing the work for a one year period; and

WHEREAS,

Taylor Morrison of California, LLC

(NAME OF CONTRACTOR)

8105 Irvine Center Drive, Suite 1450, Irvine, CA 92618

(ADDRESS OF CONTRACTOR)

hereinafter designated as the "Principal" has entered into a Contract for the work described as follows:

Level 1, Tracts 17501 & 17554, Costa Mesa, CA

(JOB NAME AND JOB ADDRESS)

WHEREAS, the said Principal is required under the terms of District's permit to furnish a bond for the faithful performance of said Contract, including a one-year guarantee of the work performed.

NOW, THEREFORE, WE, the undersigned CONTRACTOR, as Principal and

National Union Fire Insurance Company of Pittsburgh, PA, 180 Maiden Lane, 21st Floor, New York, NY 10038

(NAME AND ADDRESS OF SURETY)

duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Costa Mesa Sanitary District, in the penal sum of: Forty One Thousand, Two Hundred Forty One Dollars (\$ 41,241.00), said sum being not less than one hundred (100%) percent of the contract price for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, if the above burden Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform all the undertakings, terms, covenants, conditions and agreements in the said contract and any alteration thereof made as therein provided, on his or their part, to be kept and performed, at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Costa Mesa Sanitary

District, its officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue. This obligation covers a one-year guarantee on work performed after said work has been completed. The one-year period shall commence on the date the Notice of Completion has been recorded.

In case suit is brought upon this bond, Surety further agrees to pay all court costs and reasonable attorneys' fees as fixed by the court.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications.

All signatures shall be properly notarized and a properly authenticated power of attorney must be submitted.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 11th day of September 2013.

**PRINCIPAL** Taylor Morrison of California, LLC

**CONTRACTOR**

By:   
Company Representative

All bonds shall be issued by an admitted surety insurer and the District reserves the right to object to any such surety, in accordance with Code of Civil Procedure Section 995.660.

By signing below, Surety certifies that the bonds are issued by admitted surety.

**SURETY** National Union Fire Insurance Company of Pittsburgh, PA

By:   
Company Representative Betty L. Tolentino, Attorney-in-Fact

APPROVED AS TO FORM:

By /s/ \_\_\_\_\_  
Alan R. Burns, District Counsel  
Costa Mesa Sanitary District



## ACKNOWLEDGMENT

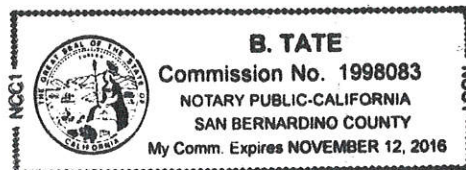
State of California  
County of Orange } ss.

On September 12, 2013 before me, B. Tate, Notary Public,  
personally appeared Marta Flores

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



B. Tate  
Signature

(seal)

## OPTIONAL INFORMATION

Date of Document \_\_\_\_\_ Thumbprint of Signer

Type or Title of Document \_\_\_\_\_

Number of Pages in Document \_\_\_\_\_

Document in a Foreign Language \_\_\_\_\_

Type of Satisfactory Evidence:

- ☐ Personally Known with Paper Identification  
☐ Paper Identification  
☐ Credible Witness(es)

Capacity of Signer:

- ☐ Trustee  
☐ Power of Attorney  
☐ CEO / CFO / COO  
☐ President / Vice-President / Secretary / Treasurer  
☐ Other: \_\_\_\_\_

☐ Check here if  
no thumbprint  
or fingerprint  
is available.

Other Information: \_\_\_\_\_  
\_\_\_\_\_

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN FRANCISCO

On September 11, 2013  
Date

before me,

JANET C. ROJO, NOTARY PUBLIC  
Here Insert Name and Title of the Officer

personally appeared

BETTY L. TOLENTINO  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

ant  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

☐ Individual

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Individual

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
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RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here



## POWER OF ATTORNEY

American Home Assurance Company  
National Union Fire Insurance Company of Pittsburgh, PA.

Principal Bond Office: 175 Water Street, New York, NY 10038

Power No. 22548

No. 03-B-54650

### KNOW ALL MEN BY THESE PRESENTS:

That American Home Assurance Company, a New York corporation, and National Union Fire Insurance Company of Pittsburgh, PA., a Pennsylvania corporation, does each hereby appoint

--Susan Hecker, Janet C. Rojo, M. Moody, Betty L. Tolentino, Virginia L. Black,  
Maureen O'Connell, Robert P. Wrixon, Katherine Zerounian, Ida Rudnick,  
Kevin Re, Susan Exline: of San Francisco, California---

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, PA. have each executed these presents

this 9th day of September, 2013



Michael Yang, Vice President

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.

On this 9th day of September, 2013 before me came the above named officer of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, PA., to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporations thereto by authority of his office.

**JULIANA HALLENBECK**  
Notary Public - State of New York  
No. 01HA6125671  
Qualified in Bronx County  
My Commission Expires April 18, 2017

### CERTIFICATE

Exerpts of Resolutions adopted by the Boards of Directors of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, PA. on May 18, 1976:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance and other contract of indemnity and writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

I, Denis Butkovic, Secretary of American Home Assurance Company and of National Union Fire Insurance Company of Pittsburgh, PA. do hereby certify that the foregoing exerpts of Resolutions adopted by the Boards of Directors of these corporations, and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolutions and the Powers of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of each corporation

this 11th day of September 2013



Denis Butkovic, Secretary

PAYMENT BOND  
BOND NO. 912-032

**COSTA MESA SANITARY DISTRICT  
PAYMENT BOND  
(LABOR AND MATERIAL BOND)  
(Private Contract)**

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, COSTA MESA SANITARY DISTRICT, a California sanitary district, by General Regulations of the Board of Directors, adopted as District Operations Code Section 7.05.030, requires that a Labor and Materials Bond be maintained ensuring that laborers and materialmen are paid on said job, and

WHEREAS, Taylor Morrison of California, LLC

(NAME OF CONTRACTOR)

8105 Irvine center Drive, Suite 1450, Irvine, CA 92618

(ADDRESS OF CONTRACTOR)

hereinafter designated as the "Principal" has entered into a Contract for the work described as follows:

Level 1, Tracts 17501 & 17554, Costa Mesa, CA

(JOB NAME AND JOB ADDRESS)

WHEREAS, said Principal is required by the provisions of said contract and of the Civil Code to furnish a bond in connection with said contract, as hereinafter set forth.

NOW, THEREFORE, WE, the undersigned CONTRACTOR, as Principal and

National Union Fire Insurance Company of Pittsburgh, PA, 180 Maiden Lane, 21st Floor, New York, NY 10038

(NAME AND ADDRESS OF SURETY)

duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Costa Mesa Sanitary District, in the penal sum of:

Forty One Thousand, Two Hundred Forty One -----

Dollars

(\$ 41,241.00), said sum being not less than one hundred (100%) percent of the estimated amount payable under the terms of the contract for which payment well and truly be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, if said Principal or his subcontractors, or the heirs, executors, administrators, successors or assigns thereof, shall fail to pay any of the persons named in Section 3181 of the Civil Code of the State of California for any materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor performed by any such claimant or any amounts required deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the CONTRACTOR and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code,




with respect to such work and labor, then said Surety will pay for the same, in an amount not exceeding the sum set forth hereinabove, and in addition, in case suit is brought upon the bond, will pay a reasonable attorney's fee to be fixed by the court. This bond shall inure to the benefit of any and all persons named in the aforesaid Civil Code Section 3181 so as to give a right of action to them or their assigns in any suit brought upon the bond. Said bond shall be exonerated 35 days after the Notice of Completion is recorded unless any pending claim remains unresolved.

Further, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the contract documents or of the work to be performed thereunder shall in any way affect its obligation on this bond; and it hereby waives notice of any and all such changes, extensions of time, and alterations or modifications of the contract documents and/or of the work to be performed thereunder.

All signatures shall be properly notarized and a properly authenticated power of attorney must be submitted.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 11th  
day of September 20 13.

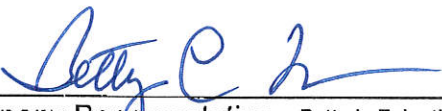
CONTRACTOR Taylor Morrison of California, LLC

By /s/  \_\_\_\_\_

In accordance with the Contract described above, all bonds shall be issued by an admitted surety insurer and the District reserves the right to object to any such surety, in accordance with Code of Civil Procedure Section 995.660.

By signing below, Surety certifies that the bonds are issued by admitted surety.

SURETY National Union Fire Insurance Company of Pittsburgh, PA

By:  \_\_\_\_\_  
Company Representative Betty L. Tolentino,  
Attorney-in-Fact

APPROVED AS TO FORM:

By /s/ \_\_\_\_\_  
Alan R. Burns, District Counsel  
Costa Mesa Sanitary District

## ACKNOWLEDGMENT

State of California  
County of Orange } ss.

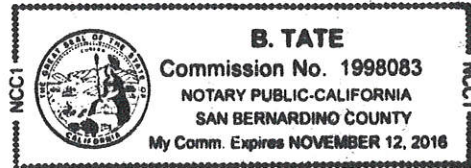
On September 12, 2013 before me, B. Tate, Notary Public,  
personally appeared Marta Flores

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

B. Tate  
Signature



(seal)

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\_\_\_\_\_ Paper Identification

\_\_\_\_\_ Credible Witness(es)

Capacity of Signer:

\_\_\_\_\_ Trustee

\_\_\_\_\_ Power of Attorney

\_\_\_\_\_ CEO / CFO / COO

\_\_\_\_\_ President / Vice-President / Secretary / Treasurer

\_\_\_\_\_ Other: \_\_\_\_\_

☐ Check here if  
no thumbprint  
or fingerprint  
is available.

Other Information: \_\_\_\_\_

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN FRANCISCO

On September 11, 2013

Date

before me,

JANET C. ROJO, NOTARY PUBLIC

Here Insert Name and Title of the Officer

personally appeared

BETTY L. TOLENTINO

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

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Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
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RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here



## POWER OF ATTORNEY

American Home Assurance Company  
National Union Fire Insurance Company of Pittsburgh, PA.  
Principal Bond Office: 175 Water Street, New York, NY 10038

Power No. 22547

### KNOW ALL MEN BY THESE PRESENTS:

No. 03-B-54650

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---Susan Hecker, Janet C. Rojo, M. Moody, Betty L. Tolentino, Virginia L. Black,  
Maureen O'Connell, Robert P. Wrixon, Katherine Zerounian, Ida Rudnick,  
Kevin Re, Susan Exline: of San Francisco, California---

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, PA. have each executed these presents

this 9th day of September, 2013



Michael Yang, Vice President

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.

On this 9th day of September, 2013 before me came the above named officer of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, PA., to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporations thereto by authority of his office.

**JULIANA HALLENBECK**  
Notary Public - State of New York  
No. 01HA6125671  
Qualified in Bronx County  
My Commission Expires April 18, 2017

### CERTIFICATE

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"**RESOLVED**, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance and other contract of indemnity and writing obligatory in the nature thereof;

"**RESOLVED**, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

I, Denis Butkovic, Secretary of American Home Assurance Company and of National Union Fire Insurance Company of Pittsburgh, PA. do hereby certify that the foregoing exerpts of Resolutions adopted by the Boards of Directors of these corporations, and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolutions and the Powers of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of each corporation

this 11th day of September 2013



Denis Butkovic, Secretary