



Approvals:
City Manager [Signature]
Dept. Head W&Z
Attorney JG
Finance JV

AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: April 1, 2014

Department: Public Works / Engineering
Prepared By: Tom Bonigut, Assistant City Engineer

Subject: **APPROVAL OF AGREEMENT BETWEEN THE CITY OF SAN CLEMENTE, LV MARBLEHEAD LLC, ARCH INSURANCE COMPANY AND MARBLEHEAD DEVELOPMENT PARTNERS LLC CONCERNING THE MARBLEHEAD COASTAL DEVELOPMENT.**

Fiscal Impact: None.

Summary: Staff recommends City Council approval of an agreement between the City of San Clemente, LV Marblehead LLC¹, Arch Insurance Company and Marblehead Development Partners LLC² to assign certain subdivision improvement obligations to Marblehead Development Partners LLC and release LV Marblehead LLC from those obligations as described below.

Background: This agreement was originally scheduled for City Council approval at its March 4, 2014 meeting, however LV Marblehead LLC and Marblehead Development Partners LLC were not able to reach agreement on final terms of their proposed sale-purchase transaction for the residential portion of the Marblehead Coastal Development. Recently both parties informed staff that they have reached agreement and requested that the attached agreement be presented to the City Council at its April 1 meeting. Marblehead Development Partners LLC has resumed efforts to provide the City with about \$42 million in replacement bonds to ensure completion of remaining improvements associated with the development project, and staff expects receipt of these bonds prior to the City Council meeting. Additional detail is provided below.

Discussion: In February 2013 the City Council approved an agreement between the City, LV Marblehead LLC and Arch Insurance Company (referred to as the "Triparty Agreement") to formally terminate a previous City-Arch Settlement Agreement and lawsuit, and to formally acknowledge LV Marblehead's assumption of all of SunCal's development obligations pursuant to various prior agreements executed between SunCal and the City. Among other provisions, the Triparty Agreement anticipated and allowed for assignment of certain development obligations from LV Marblehead LLC to other parties. In November 2013 a "First Implementation Agreement" to the Triparty Agreement was executed between LV Marblehead LLC, Villa San Clemente LLC and the City to assign certain obligations related to the commercial portion of the Marblehead Coastal site. LV Marblehead LLC is finalizing a sale of the residential portion of the site to Marblehead Development Partners LLC and therefore those

¹ Marblehead LLC is the limited liability company formed by Lehman Brothers Holdings Inc.
² Marblehead Development Partners LLC is a limited liability company owned by affiliates of Taylor Morrison of California LLC, and certain funds and accounts managed by Oaktree Capital Management, L.P. and TPG (an investment firm).

development obligations must be assigned to Marblehead Development Partners LLC. Similar to the First Implementation Agreement, the attached Second Implementation Agreement:

- Formally acknowledges the assignment and assumption of subdivision improvement agreement obligations to Marblehead Development Partners LLC related to completion of Marblehead Coastal site improvements (that are not part of the commercial site);
- Requires Marblehead Development Partners LLC to furnish performance and payment bonds for these improvements;
- Releases these obligations from LV Marblehead LLC; and
- Exonerates LV Marblehead's bonds for these improvements.

Staff and the City Attorney have reviewed the attached agreement and recommend City Council approval.

Recommended

Action: STAFF RECOMMENDS THAT the City Council approve and authorize the Mayor to execute the Second Implementation Agreement between the City of San Clemente, LV Marblehead LLC, Arch Insurance Company and Marblehead Development Partners LLC concerning the Marblehead Coastal Development.

Attachments: Proposed agreement.

Notification: None.

SECOND IMPLEMENTATION AGREEMENT RESPECTING TRIPARTY AGREEMENT AND SUBDIVISION IMPROVEMENT AGREEMENT

THIS SECOND IMPLEMENTATION AGREEMENT RESPECTING TRIPARTY AGREEMENT AND SUBDIVISION IMPROVEMENT AGREEMENT (this "**Agreement**"), is dated and effective as of April ____, 2014 ("**Effective Date**") and is entered into by and among the CITY OF SAN CLEMENTE, a California municipal corporation ("**City**"), LV MARBLEHEAD LLC, a Delaware limited liability company ("**LV Marblehead**"), ARCH INSURANCE COMPANY, a Missouri corporation ("**Arch**") and MARBLEHEAD DEVELOPMENT PARTNERS LLC, a Delaware limited liability company ("**Marblehead Development Partners**"). The City, LV Marblehead, Arch and Marblehead Development Partners are collectively referred to herein as the "**Parties**".

RECITALS

A. The City and SunCal Marblehead, LLC, a Delaware limited liability company ("**SunCal**") previously entered into that certain Subdivision Improvement Agreement (the "**SIA**") dated June 21, 2005.

B. The SIA was assigned to and assumed by LV Marblehead under a Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code for SunCal which was confirmed and became effective April 27, 2012, and which SIA was amended by the Triparty Agreement dated May 20, 2013 (the "**Triparty Agreement**") providing for certain construction and bonding requirements with respect to the Works of Improvement (as defined therein) relating to that certain real estate development project comprised of certain real property consisting of approximately 247 acres located in the City of San Clemente, California (the "**Marblehead Project**"). Those Works of Improvement which were bonded by surety bonds issued by Arch are referred to herein as the "**Bonded Improvements**."

C. The SIA and Triparty Agreement were partially assigned to Villa San Clemente, LLC, a California limited liability company ("**VSC**"), via a First Implementation Agreement Respecting the Triparty Agreement and SIA dated November 19, 2013 (the "**First Implementation Agreement**"), and collectively with the SIA and the Triparty Agreement, the "**SIA Documents**") with respect to the Commercial Property as described in the First Implementation Agreement. LV Marblehead continued to own the balance of the Marblehead Project described on Exhibit "A" attached hereto (the "**Residential Property**").

D. Concurrent with the sale of the Residential Property from LV Marblehead to Marblehead Development Partners, LV Marblehead and Marblehead Development Partners are entering into that certain Assignment and Assumption of Development Agreement (the "**Assignment Agreement**"), pursuant to which, among other things and as between LV Marblehead and Marblehead Development Partners, LV Marblehead and Marblehead Development Partners shall confirm the assignment by LV Marblehead of all of its right, title and interest under and to the Development Agreement for Marblehead Coastal Property ("**Development Agreement**") dated October 2, 1998 and recorded on October 2, 1998 as instrument No. 19980667761 in the official records of the Orange County Recorder, and the assumption by Marblehead Development Partners of all of LV Marblehead's obligations under

and pursuant to the Development Agreement. Pursuant to this Agreement, Marblehead Development Partners shall assume LV Marblehead's obligation to complete, in accordance with the SIA Documents, all Works of Improvement and other obligations comprising, relating to or otherwise required to be completed or performed in connection with the Marblehead Project except for those VSC Assumed Obligations (as defined in the First Implementation Agreement) which shall be performed solely by VSC (collectively, the "**Residential Marblehead Retained SIA Obligations**").

E. Paragraph 6 of the Triparty Agreement contemplates that third parties may be willing to undertake performance of certain obligations of LV Marblehead under the SIA (defined in the Triparty Agreement as the "**Assumed SIA Obligations**") and provide their own surety bonds to secure performance thereof, and provides for a mechanism for such parties to undertake to perform, and for LV Marblehead and Arch to be released from, any obligations relating to such Assumed SIA Obligations.

F. In furtherance of the LV Marblehead/Marblehead Development Partners Assignment Agreement, LV Marblehead, Marblehead Development Partners and the City desire to enter into this Agreement to, among other things, evidence Marblehead Development Partners' agreement to perform, for the benefit of the City, those particular Assumed SIA Obligations consisting of the Residential Marblehead Retained SIA Obligations in accordance with the SIA, the Triparty Agreement, and this Agreement, and provide new surety bonds to secure the Residential Marblehead Retained SIA Obligations in lieu of the corresponding surety bonds issued by Arch pursuant to the Triparty Agreement. Contemporaneously therewith and by the terms of this Agreement, the City and LV Marblehead desire, among other things, to amend the SIA to fully release LV Marblehead from the Residential Marblehead Retained SIA Obligations and to make clear that the City has consented to the assignment of the Residential Marblehead Retained SIA Obligations to Marblehead Development Partners and will not look to LV Marblehead for the performance of such obligations. Further, by the terms of this Agreement, the City and Arch desire to release Arch from its obligation to complete the Residential Marblehead Retained SIA Obligations. Accordingly, the Parties desire to implement the provisions contemplated in Paragraph 6 of the Triparty Agreement, pursuant to the terms and conditions of this Agreement.

A G R E E M E N T

NOW, THEREFORE, incorporating the foregoing recitals and in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Assignment and Assumption of SIA and Triparty Agreement.** As of the "Condition Date" (defined in Paragraph 4 below), LV Marblehead assigns to Marblehead Development Partners and Marblehead Development Partners assumes LV Marblehead's obligations under the SIA Documents, excluding those previously assigned to VSC pursuant to the First Implementation Agreement (i.e. the Residential Marblehead Retained SIA Obligations) and agrees to be solely responsible for and shall complete the Residential Marblehead Retained SIA Obligations.

(a) Without limiting the foregoing, Marblehead Development Partners assumes, agrees to be solely responsible for and agrees to perform and comply with the following obligations all of which shall be considered part of the Residential Marblehead Retained SIA Obligations for purposes of this Agreement, the SIA, and the Triparty Agreement:

- (1) All of the applicable and outstanding obligations of the “Subdivider” under the SIA as they pertain or relate to the Works of Improvement and other obligations comprising, relating to or otherwise required to be completed or performed in connection the Marblehead Project, except those VSC Assumed Obligations as defined in the Triparty Agreement, and including, without limitation, the “Construction Obligations”, “Time for Performance”, “Labor”, “Security”, “Costs of Construction and Provision for Inspection Services”, “Warranty Work” and the “Indemnity” (as such quoted terms are defined in the SIA) obligations described in Sections 1, 2, 3, 4, 5, 7 and 9 of the SIA and the subsections thereof;
- (2) All obligations, if any, to post any maintenance and/or warranty bonds with respect to said portion of the Works of Improvement; and
- (3) All of the obligations and conditions imposed by the City with respect to the Marblehead Project as they pertain or relate to said portion of the Works of Improvement and other obligations comprising, relating to or otherwise required to be completed or performed in connection with the Residential Marblehead Retained SIA Obligations.

(b) Marblehead Development Partners agrees that its rights as Subdivider under the SIA with respect to the Residential Marblehead Retained SIA Obligations shall be subject to all of the rights and remedies of the City thereunder.

(c) The City hereby consents to the foregoing assignment and assumption of (i) the Residential Marblehead Retained SIA Obligations, and (ii) the SIA Documents.

2. **Release of LV Marblehead from the SIA Documents.** As of the Condition Date and by virtue of this Agreement and without any further action by any of the Parties, LV Marblehead shall be fully released from all obligations under the SIA Documents, including without limitation, the Residential Marblehead Retained SIA Obligations. In furtherance of the foregoing, the City acknowledges and agrees that it shall not enforce any right or remedy (including, without limitation, those arising under Section 8 of the SIA and each subsection thereof) against LV Marblehead should Marblehead Development Partners fail to perform or satisfy any obligations or provisions of the SIA Documents, including without limitation, any Residential Marblehead Retained SIA Obligations. The City hereby acknowledges and agrees that its rights and remedies for nonperformance of the SIA Documents, including without limitation, Residential Marblehead Retained SIA Obligations, shall be limited to any recourse it may have against Marblehead Development Partners (or to the extent applicable, VSC).

3. **Arch Obligations and Bonding.** On the Condition Date, Marblehead Development Partners shall cause to be furnished to the City, Security Instruments (as defined in Section 4.1 of the SIA) in the form of performance and payment bonds, to replace the bonds listed on Exhibit B with respect to the Residential Marblehead Retained SIA Obligations and Works of Improvement. Upon the City's receipt of the replacement bonds, Arch shall be deemed fully released and exonerated from all obligations under the bonds listed on Exhibit B and the City shall deliver to Arch a letter to such effect in the form attached hereto as Exhibit C (the "Exoneration Letter"). Arch shall further be deemed fully released, as of the Condition Date, from all Residential Marblehead Retained SIA Obligations, and from all obligations arising under the February 2, 2010 ARCH-City Settlement Agreement and the Triparty Agreement.

4. **Condition Date.** This Agreement shall not be binding on any Party hereto until the date on which all of the following have occurred (with such date to be confirmed by written notice delivered by the City to the other Parties) (the "**Condition Date**"): (a) this Agreement has been fully executed by the Parties hereto; (b) the City Council for the City has approved this Agreement; (c) LV Marblehead and Marblehead Development Partners have delivered to the City evidence that each has entered into the LV Marblehead/Marblehead Development Partners Assignment Agreement, which evidence may consist of a fully executed and acknowledged memorandum of the LV Marblehead/Marblehead Development Partners Assignment Agreement; (d) Marblehead Development Partners has delivered the bonds replacing those listed in Exhibit B to the City; and (e) LV Marblehead has conveyed the Residential Property to Marblehead Development Partners or its designee as evidenced by the recordation of a grant deed in the Official Records of the County of Orange. Further, until all of the conditions set forth above have been satisfied, the City shall have no obligation to release LV Marblehead, Arch and the Arch Bonds as contemplated by Paragraphs 2 and 3 of this Agreement.

5. **Notices.** All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to any Party to be notified; (b) when sent by electronic mail or facsimile confirmed by the recipient; (c) on the date of a registered or certified mail receipt prepared by the U.S. Postal Service; or (b) the date of a nationally recognized overnight courier's written verification of receipt. All communications shall be sent to the following, unless a written notice of changed recipient or address is exchanged among the Parties:

If to Arch:	Arch Insurance Company c/o Arch Insurance Group 3 Parkway, Suite 1500 Philadelphia, PA 19102 Attn: Kim McNaughton, Esq. Fax: 866-637-5861 Email: kmcnaughton@archinsurance.com
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and

Arch Insurance Company
c/o Arch Insurance Group
865 S. Figueroa Street, Suite 2700
Los Angeles, CA 90017.
Attn: Susan D. Neff, Esq.
Fax: 213-283-2075
Email: sneff@archinsurance.com

with copies to:

Leo & Weber, P.C.
One N. LaSalle Street, Suite 3600
Chicago, IL 60602
Attn: T. Scott Leo, Esq.
Fax: 312-854-1240
Email: sleo@leoweber.com

and

Gascou Hopkins LLP
1801 Avenue of the Stars, Suite 230
Los Angeles, CA 90067
Attn: Ronald Hopkins, Esq.
Fax: 310-785-9149
Email: rhopkins@gascouhopkins.com

After May 1, 2014:

Gascou Hopkins LLP
9696 Culver Blvd., Suite 302
Culver City, CA 90232
Attn: Ronald W. Hopkins, Esq.
Fax: (310)785-9149
Email: rhopkins@gascouhopkins.com

If to City:

City of San Clemente City Hall
100 Avenida Presidio
San Clemente, CA 92672
Attn: City Manager
Fax: 949-361-8283
Email: citymanager@san-clemente.org

With a copy to:

Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626
Attn: Jeffrey Goldfarb, Esq.
Fax: 714-546-9035
Email: jgoldfarb@rutan.com

If to LV Marblehead: LV Marblehead LLC
c/o Lehman Brothers Holdings Inc.
19800 MacArthur Boulevard, Suite 500
Irvine, CA 92612
Attn: Eric Hoffman
Fax: 949-476-3021
Email: eric.hoffman@lehmanholdings.com

With copies to: Lehman Brothers Holdings, Inc.
1271 Avenue of the Americas, 39th Floor
New York, NY 10020
Attn: Joelle Halperin, Esq.
Fax: 646-834-0874
Email: joelle.halperin@lehmanholdings.com

and

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
Attention: Steven Klein, Esq.
Fax: 212-716-0802
Email: sklein@gibsondunn.com

If to Marblehead Development Partners:

c/o Taylor Morrison
4900 N. Scottsdale Road, Suite 2000
Scottsdale, AZ 85251
Attention: Ben Aronovitch, Esq.
Fax: 866-644-6199
Email: baronovitch@taylormorrison.com

With copies to: Marblehead Development Partners
c/o Oaktree Capital Management
300 South Grand Avenue, 28th Floor
Los Angeles, CA 90067
Attention: Derek Smith
Fax: 213-830-6392
Email: dsmith@oaktreecapital.com

and

Paul Hastings LLP
515 South Flower Street, Suite 2500
Los Angeles, California 90071
Attention: Philip N. Feder, Esq.
Fax: 213-996-3298
Email: philipfeder@paulhastings.com

6. **Full Force and Effect.** To the extent inconsistent therewith, this Agreement shall be deemed to modify the SIA and the Triparty Agreement. Except as otherwise stated herein, the SIA and the Triparty Agreement are unmodified and shall continue in full force and effect.

7. **Miscellaneous.**

(a) This Agreement shall bind and inure to the benefit of the Parties and each of their respective successors and assigns.

(b) This Agreement shall be governed in all respects by the internal laws of the State of California in effect on the date hereof, without regard to conflict of law principles.

(c) Each Party agrees to execute and deliver, or cause to be executed and delivered, such other and further documents and perform such other acts as may be reasonably requested by another Party to the extent reasonably necessary to effectuate the purposes of this Agreement, *provided* that any such other and further documents shall not increase any obligation of any party hereto or diminish any right of a party hereto.

(d) In any litigation arising from or relating to this Agreement, including, without limitation, proceedings in any state, federal or bankruptcy court, in addition to whatever other relief to which it may be entitled, the prevailing Party shall be entitled to recover its costs and reasonable attorneys' fees in an amount to be determined by the applicable court.

(e) The Parties agree that no third party is intended to be a third party beneficiary of this Agreement, either express or implied.

(f) This Agreement may be executed in counterparts by facsimile signature and the counterparts, when taken together, shall have the same force and effect as if a single, original document had been executed by the Parties.

(g) EACH OF THE PARTIES HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION HERewith OR IN RESPECT OF ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY OR ARISING OUT OF ANY EXERCISE BY ANY PARTY OF ITS RESPECTIVE RIGHTS UNDER THIS AGREEMENT OR IN ANY WAY RELATING TO THE TRANSACTIONS CONTEMPLATED HEREBY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THIS WAIVER OF RIGHT TO TRIAL BY JURY IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF THE PARTIES IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH 7(g) IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

IN WITNESS WHEREOF, the Parties have executed this Second Implementation Agreement Respecting Triparty Agreement and Subdivision Improvement Agreement as of the day and year first above written above.

CITY:
CITY OF SAN CLEMENTE

MARBLEHEAD DEVELOPMENT PARTNERS:
MARBLEHEAD DEVELOPMENT PARTNERS LLC,
a Delaware limited liability company

By: _____
Tim Brown, Mayor

By: _____

ATTEST:

Name: _____

Title: Authorized Signatory

Joanne Baade, City Clerk

APPROVED AS TO FORM:

City Attorney

ARCH:
ARCH INSURANCE COMPANY,
a Missouri corporation

By: _____

Name: _____

LV MARBLEHEAD:
LV MARBLEHEAD LLC,
a Delaware limited liability
company

By: _____

Name: _____

List of Exhibits

Exhibit "A" Residential Property Legal Description

Exhibit "B" Marblehead Coastal Bond Summary

Exhibit "C" Form of Exoneration Letter

Exhibit "A"
Residential Property Legal Description

Real property in the City of San Clemente, County of Orange, State of California, described as follows:

LOTS 1 THROUGH 313, INCLUSIVE AND LETTERED LOTS A THROUGH Z, INCLUSIVE, AA THROUGH MM, INCLUSIVE, QQ THROUGH ZZ, INCLUSIVE AND AAA THROUGH HHH, INCLUSIVE OF TRACT NO. 8817 IN THE CITY OF SAN CLEMENTE, COUNTY OF ORANGE, STATE OF CALIFORNIA, ON FILE IN BOOK 880, PAGES 1 THROUGH 31, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE ORANGE COUNTY RECORDER AND BY THAT CERTAIN INSTRUMENT ENTITLED "TRACT MAP CERTIFICATE OF CORRECTION" RECORDED SEPTEMBER 17, 2007 AS INSTRUMENT NO. 2007000566934 OF OFFICIAL RECORDS.

EXCEPT THEREFROM ALL UNDERGROUND WATER AND WATER RIGHTS, IF ANY, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS DEDICATED TO THE CITY OF SAN CLEMENTE PER RECITALS ON THE MAP OF TRACT 8817.

APN: 691-421-01 through 691-421-04; 691-422-16; 691-423-01 through 691-423-66; 691-424-01 through 691-424-81; 691-431-01 through 691-431-03, 691-431-05 through 691-431-09 and 691-431-12 to 691-431-15; 691-434-01 through 691-434-66; 691-435-01 through 691-435-43, 691-435-45, 691-435-46 and 691-435-48 through 691-435-52; 691-436-01 through 34 and 691-437-01 through 56

Exhibit "B"
Marblehead Coastal Bonds

	Bond No.	Bond Amount
Via Socorro	SU1121183	\$ 24,480
AVH/Pico Sewer/Reclaimed Water	SU1121201	\$ 1,054,609
Rough Grading	SU1121198	\$ 1,071,722
Monumentation	SU1121197	\$ 236,839
Ave. Pico Street Improvements	SU1121178	\$ 651,534
Ave. Pico Medians and Parkway	SU1121173	\$ 499,567
Ave. Pico Traffic Signals	SU1121181	\$ 102,300
Trails	SU1121175	\$ 4,057,502
Storage Vaults/CDS Units	SU1121164	\$ 812,030
Storm drain under 27" water (part of backbone storm drain)	SU1121200	\$ 528,525
Street Improvements: Azul, Artemesia, Park Access Rd.	SU1121188	\$ 1,175,737
Lot G Park (formerly Lot N)	SU1121171	\$ 905,258
JRWSS 27" water line	SU1121196	\$ 95,022
Habitat Management Plan	SU1121194	\$ 153,830
El Camino Real Improvements	SU1121179	\$ 2,001,756
Los Molinos Street Improvements	SU1121182	\$ 561,346
JRWSS Water Line/Rough Grade	SU1121189	\$ 45,000
Caltrans Grading	SU1121199	\$ 371,484
AVH Street Improvements	SU1121177	\$ 2,298,072
AVH Traffic Signal Improvements	SU1121180	\$ 1,770,776
AVH Median And Parkway	SU1121174	\$ 381,726
AVH Bridge Improvements	SU1121165	\$ 2,275,300
Precise Grade: Sports Park	SU1121170	\$ 5,170,639
Street Improvements: Lots 1-77	SU1121184	\$ 2,082,823
Street Improvements: Lots 78-120	SU1121185	\$ 846,767
Street Improvements: Lots 121-182	SU1121186	\$ 657,285
Street Improvements: Lots 183-313	SU1121187	\$ 2,258,987
Residential Streets Landscape	SU1121195	\$ 5,925,886
Entry Monument Signage	SU1121176	\$ 247,471
Precise Grade: Lot RR (Lot "V")	SU1121193	\$ 727,261
MSE Wall Planting	SU1121168	\$ 32,816
Grading Bluff Repair	SU1121167	\$ 200,000
Precise Grade: Pico Park	SU1121169	\$ 1,441,657
Precise Grade: Lot R Park (Lot "H")	SU1121172	\$ 885,468
Retaining Wall for Tract 8817	SU1121192	\$ 65,674.00
Commercial Service Entry Wall	SU1121190	\$ 79,828.00
Canyon Edge Wall for Tract 8817	SU1121191	\$ 6,048.00
TOTAL		\$41,703,025.00

Exhibit "C"
Form of Exoneration Letter

_____, 2014

Susan D. Neff, Esq.
Senior Surety Counsel
Arch Insurance Group
865 N. Figueroa Street, Suite 2700
Los Angeles, CA 90017

Re: Exoneration of ARCH Bonds issued on behalf of principal LV Marblehead LLC

Dear Ms. Neff:

Pursuant to the terms of: 1) the Triparty Agreement between ARCH, LV Marblehead LLC and the City of San Clemente dated and effective May 20, 2013 ("Triparty Agreement") under which ARCH has issued certain Replacement Bonds as listed in Exhibit "C" to the Triparty Agreement which pertain to LV Marblehead LLC's performance of certain obligations to arrange for the construction of improvements on the Marblehead project; 2) the First Implementation Agreement Respecting the Triparty Agreement and Subdivision Improvement Agreement between ARCH, LV Marblehead LLC, Villa San Clemente LLC, and the City of San Clemente dated and effective November 19, 2013 ("First Implementation Agreement"); and the Second Implementation Agreement Respecting the Triparty Agreement and Subdivision Improvement Agreement between ARCH, LV Marblehead LLC, Marblehead Development Partners LLC, and the City of San Clemente dated and effective _____, 2014 ("Second Implementation Agreement"), the City of San Clemente hereby releases and exonerates effective this date the subdivision Faithful Performance Bonds issued by Arch to the City on behalf of principal LV Marblehead, LLC identified as listed in Attachment A.

Additionally, the City releases and exonerates any and all subdivision labor and material bonds accompanying the bonds listed in Attachment A prospectively as to any claims arising after this date.

The Faithful Performance and Labor and Materials Bonds for the bonds listed in Attachment A are enclosed. The undersigned is a duly authorized representative of the City of San Clemente who has full permission from the City Council to issue these binding releases and exonerations on behalf of the municipality.

Sincerely,

William E. Cameron
Public Works Director/City Engineer

Attachment A
Marblehead Coastal Arch Bonds on Behalf of Principal, LV Marblehead

	Bond No.	Bond Amount
Via Socorro	SU1121183	\$ 24,480
AVH/Pico Sewer/Reclaimed Water	SU1121201	\$ 1,054,609
Rough Grading	SU1121198	\$ 1,071,722
Monumentation	SU1121197	\$ 236,839
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AVH Street Improvements	SU1121177	\$ 2,298,072
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Commercial Service Entry Wall	SU1121190	\$ 79,828.00
Canyon Edge Wall for Tract 8817	SU1121191	\$ 6,048.00
TOTAL		\$41,703,025.00