



Legislation Text

File #: 11-0470, **Version:** 2

Department of Transportation recommending the following pertaining to West Valley Village Unit 8A:

- 1) Accept subdivision improvements as substantially complete;
- 2) Reduce "Performance Bond" portion of cash deposit to \$475,898.89 to guarantee against any defective work, labor done, or defective materials furnished and release one year after acceptance if no claims are made; and
- 3) Hold "Laborers and Materialmen's Bond" portion of cash deposit in the amount of \$1,175,282.21 to guarantee payment to persons furnishing labor, materials or equipment and release six months after acceptance if no claims are made.

Fiscal Impact/Change to Net County Cost

The requested Board action has no associated fiscal impact or net County cost.

Background

On March 31, 2011, Taylor Morrison of California, LLC, wire transferred \$2,995,803.09 to El Dorado County to bond for securities mandated in El Dorado County's Subdivision Ordinance - (Title 16, County Code #16.16.050) which is to guarantee the performance of the improvement agreement and secondly guarantees payment to the contractor, subcontractors and persons furnishing labor, materials or equipment. These are commonly referred to as "Performance" and "Laborer & Materialmen's" Bonds. The County Treasurer placed this \$2,995,803.09 deposit into Account #8830357 with instructions to segregate, block and accrue interest. Account #8802315 was established in which the interest has been posted. The initial account reserved \$1,820,520.88 as surety for the "Performance Bond" portion and \$1,175,282.21 for the "Laborer & Materialmen's Bond" portion.

Reason for Recommendation

The Subdivision Improvements for West Valley Village 8A are substantially complete according to the plans, specifications and conditions of the Agreement to Make Subdivision Improvements to Class I Subdivisions Between the County and Owner (AGMT #11-53136) dated May 17, 2011.

The Department of Transportation (Department) has received and accepted a "Certification of Partial Completion of Subdivision Improvements" submitted by Taylor Morrison of California, LLC (Attachment 2B) pursuant to Article 15 of Subdivision Improvement Agreement (SIA) (AGMT #11-53136). The acceptance of the Certification of Partial Completion of Subdivision Improvements for the West Valley Village Unit 8A subdivision by the Department provides the documentation to request the Board, under Article 16 of the SIA, to release a portion of the securities affiliated with the SIA.

Additionally, Article 20 of the SIA (AGMT #11-53136) allows the retention of 10% of the estimated cost of all the improvements for (1) one year following acceptance of the work by the County. Once Board accepts the work, the Department will request a 90% reduction in the "Performance Bond" portion of the surety. Therefore, this Bond amount of \$1,820,520.88 will be reduced by \$1,344,621.99 to \$475,898.89, which equals 10% of the total cost of the improvements. Following Board acceptance of the work, the Department will submit a claim to the Auditor / Controller's Office

to issue a check to the Developer in the amount of \$1,344,621.99.

The "Laborer and Materialmen's Bond" portion of the surety (\$1,175,282.21) is security to guarantee payment to persons furnishing labor, materials or equipment. If there are no claims made, the Department will submit a second claim to the Auditor-Controller's Office to issue a check to the Developer in the amount of \$1,175,282.21 six months after Board acceptance.

Finally, one year after Board acceptance, if there are no defects or warranty claims, the Department will submit a final claim to the Auditor / Controller's Office to issue a check for the remainder of the "Performance Bond" portion of the surety (amount to include interest accrued).

Action(s) to be taken following Board approval

1. The Department will submit a claim the Auditor-Controller's Office to issue a check to Taylor Morrison of California, LLC, in the amount of \$1,344,621.99 from Account #8830357;
2. "Performance Bond" portion (\$475,898.89) and the "Laborer and Materialmen's" portion (\$1,175,282.21) totaling \$1,651,181.10 to remain in Account #8830357, interest will continue to accrue in Account #8802315;
3. The Department will submit a claim to the Auditor-Controller's Office to issue a check to Taylor Morrison of California, LLC, from Account #8830357 for the "Laborer & Materialmen's" portion (\$1,175,282.21) six months after acceptance if listed conditions are met; and,
4. The Department of Transportation will submit a final claim to the Auditor-Controller's office to issue a check to Taylor Morrison of California, LLC from Accounts #8830357 and 8802315 for the remainder of the "Performance Bond" cash deposit (amount to include interest accrued) after the required time period, if listed conditions are met.

Contact

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