

# MONTARA WATER AND SANITARY DISTRICT AGENDA

For Meeting Of: **September 2, 2021**

TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager



**SUBJECT: Review and Possible Action Regarding the Big Wave NPA Main Extension Dedication**

---

---

The County of San Mateo has approved the Coastal Development Permit (CDP) for the Big Wave North Parcel Alternative (NPA) in 2015. The CDP as written and amended, required Big Wave NPA to obtain water service for domestic and fire protection from the District.

The Subdivision Agreement for Phase I included improvements required to provide the Big Wave NPA development with the fire service per the Fire District requirements. The improvements included a 12-inch-diameter water main extension from the District's Alta Vista Zone to the Big Wave NPA. Other improvements required by the CDP and for the development of the Big Wave NPA will be included at a future date in the Phase II agreement that would require a separate authorization by the MWSD Board.

The Applicant, Big Wave NPA, Big Wave LLC, a California Limited Liability Corporation, being the owner/developer of water utility improvements to serve a subdivision project approved by the County of San Mateo in a final subdivision map entitled, "Big Wave Subdivision Map No. 945" and Parcel Map entitled, "Parcel Map No. 1128 Lands of Big Wave Group" on real property located in unincorporated San Mateo County lying within the Montara Water & Sanitary District's ("District") service area and designated as Assessor Parcel Numbers 047-311-060, 047-312-040 ("Property"), has completed construction of an extension of the District's water main located in Airport Street to the Property's northwesterly border corner ("Phase I Improvements") in accordance with the Agreement, as more particularly described in the Phase 1 Improvements Construction Documents approved by the District.

The Applicant declared that the Phase 1 Improvements were built for public use, and upon their acceptance by the Board of Directors of District, all right, title and interest of the undersigned in and to said water system improvements shall vest in the District.

The District's Water System Engineer reviewed the project during construction, approved the as-built drawings for the main extension, and recommended the main for acceptance.

**RECOMMENDATION:** Adopt MWSD Board Resolution No. \_\_\_\_\_ and Accept the Phase I Water Main improvements into the District.

Attachments

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE MONTARA WATER AND SANITARY DISTRICT ACCEPTING OFFER OF DEDICATION OF SUBDIVISION WATER UTILITY IMPROVEMENTS (Big Wave; APNS 047-311-060, 047-312-040)**

**WHEREAS**, Big Wave, LLC, a California Limited Liability Corporation ("Applicant") is constructing a subdivision and mixed-use development project known as "The Big Wave Community" on real property located in the County of San Mateo, California ("Project"), as approved by the Board of Supervisors of the County of San Mateo, Permit File Number 2013-0045, on May 19, 2015 (as subsequently amended on July 23, 2019); and

**WHEREAS**, in accordance with the Montara Water and Sanitary District ("District") Code, Applicant submitted an application for Water Service by the District's water system to serve the Project, which requires the financing, construction and dedication to the District of a Main Extension beyond the District's existing facilities for Phase I of the Project's water utility improvements, to wit: a new 12-inch-diameter, 5,868-foot-long, C900 PVC pipeline extension to the District's water distribution system, located primarily in the westerly shoulder in Airport Street and extending from approximately Los Banos Avenue to the Property's southeasterly border corner approximately 1,000 feet north of the intersection of Stanford Street ("Phase 1 Improvements"); and

**WHEREAS**, Applicant submitted preliminary design plans and specifications of the Phase 1 Improvements titled "Big Wave Community, APN 047-311-060 and 047-312-040, Airport Street, Princeton-By-The-Sea, CA", dated December 13, 2018 as revised August 9, 2019, prepared by Sandis Civil Engineers Surveyors Planners; and

**WHEREAS**, pursuant to District Code Section 5-4.207, the District Board approved the plans and specifications of the Phase 1 Improvements along with an agreement by and between District and Applicant entitled "Agreement for Phased Construction and Acquisition of Subdivision Water Utility Improvements" ("Agreement"); and

**WHEREAS**, Applicant has completed construction and installation of the Phase 1 Improvements for public use and has made an offer of dedication granting to District all right, title and interest in and to said improvements for inclusion into the District's water system pursuant to the Agreement (said offer of dedication is attached hereto as Exhibit "A" and incorporated herein by this reference); and

**WHEREAS**, based on the approval by the District's Engineer and the recommendation of the District's General Manager for conformance with District's requirements, the District Board desires to approve completion of the Phase 1

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE MONTARA WATER AND SANITARY DISTRICT ACCEPTING OFFER OF DEDICATION OF SUBDIVISION WATER UTILITY IMPROVEMENTS (Big Wave; APNS 047-311-060, 047-312-040)**

Improvements and accept the Applicant's offer of dedication of the Phase 1 Improvements for public use.

**NOW, THEREFORE**, be it resolved by the Board of the Montara Water and Sanitary District, a public agency in the County of San Mateo, California, as follows:

1. The foregoing Recitals are true and correct.
2. The District hereby approves and accepts the Phase 1 Improvements, as described herein.
3. The President of the District's Board and the Secretary of the District are hereby authorized to execute and attest thereto, respectively, a Certificate of Acceptance of the Phase 1 Improvements.
4. The District's acceptance of the Phase 1 Improvements is conditional upon the warranty of said improvements by the Applicant for a period of one year from this date of acceptance.
5. The District Manager is hereby authorized to present a certified copy of this Resolution and/or Certificate of Acceptance in a form approved by the District's General Counsel to the Assessor-County Clerk-Recorder of the County of San Mateo for recordation in the Official Records of said County.
6. This Resolution is effective upon its adoption.

\_\_\_\_\_  
President, Montara Water and Sanitary District

COUNTERSIGNED:

\_\_\_\_\_  
Secretary, Montara Water and Sanitary District

\* \* \* \*

I HEREBY CERTIFY that the foregoing Resolution No. \_\_\_\_\_ duly and regularly adopted and passed by the Board of the Montara Water and Sanitary

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE MONTARA WATER AND SANITARY  
DISTRICT ACCEPTING OFFER OF DEDICATION OF  
SUBDIVISION WATER UTILITY IMPROVEMENTS (Big Wave;  
APNS 047-311-060, 047-312-040)**

District, County of San Mateo, California, at a Special Adjourned Meeting thereof held on the 2<sup>nd</sup> day of September 2021, by the following vote:

AYES, Directors:

ABSTENTION:

NOES, Directors:

ABSENT, Directors:

---

Secretary, Montara Water and Sanitary District

Board of Directors  
Montara Water & Sanitary District  
8888 Cabrillo Hwy  
Montara, California 94037

Re: Dedication of Phase 1 Improvements to District Water System Pursuant to *Agreement For Phased Construction And Acquisition Of Subdivision Water Utility Improvements*, recorded with San Mateo County Assessor-County Clerk-Recorder on 02/28/20, Document #2020-018284 ("Agreement")

Big Wave LLC, a California Limited Liability Corporation, being the owner/developer of water utility improvements to serve a subdivision project approved by the County of San Mateo in a final subdivision map entitled, "Big Wave Subdivision Map No. 945" and Parcel Map entitled, "Parcel Map No. 1128 Lands of Big Wave Group" on real property located in unincorporated San Mateo County lying within the Montara Water & Sanitary District's ("District") service area and designated as Assessor Parcel Numbers 047-311-060, 047-312-040 ("Property"), has completed construction of an extension of the District's water main located in Airport Street to the Property's northwesterly border corner ("Phase 1 Improvements") in accordance with the Agreement, as more particularly described in the Phase 1 Improvements Construction Documents approved by the District.

Owner/developer hereby declares that the Phase 1 Improvements were built for public use, and upon their acceptance by the Board of Directors of District, all right, title and interest of the undersigned in and to said water system improvements shall vest in the District. The undersigned fully guarantees all work for the Phase 1 Improvements for a period of one (1) year from the Board of Director's acceptance thereof, and agrees to either make repairs or to pay for repairs of failure of said water system improvements during said one (1) year period, which result from original installation or materials used therein.

Owner/developer agrees, as a condition precedent to District's acceptance of the Phase 1 Improvements, to submit to District a bond, cash deposit or equivalent in the amount of ten percent (10%) of the costs of construction of the Phase 1 Improvements guaranteeing and securing to District the owner and/or developer's compliance with the provisions of Paragraph 10 of the Agreement for a period of one (1) year after acceptance of the Phase 1 Improvements by District. Owner and/or developer shall provide District copies of all

*(cont. next page)*

invoices for and proof of payment of the costs of construction of the Phase 1 Improvements concurrently with submittal of the bond or cash deposit.

Dated: 8/23/2021

**Big Wave, LLC**, a California Limited Liability Corporation

By:  \_\_\_\_\_

Jeffrey Peck  
Managing Member of Big Wave, LLC, a California Limited Liability Corporation





**DEFECTIVE MATERIALS AND WORKMANSHIP (WARRANTY) BOND**

Bond No **4428567W**  
Premium Included

KNOW ALL MEN BY THESE PRESENTS:

That, **Big Wave, LLC**, as Principal, and **SureTec Insurance Company**, a corporation organized under the laws of the State of Texas and authorized to do a surety business in the State of California, as Surety, are held and firmly bound unto the **Montara Water & Sanitary District** in the sum of **Eighty-Eight Thousand Dollars**, lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, on **September 12, 2019**, the said Principal, entered into an agreement (the "Agreement") for Public and On Site Improvements for: **Big Wave Community** ; for the sum of **Eight Hundred Eighty Thousand Dollars (\$880,000.00)**; and,

WHEREAS, under the terms of the specifications for said work, the said Principal is required to give a bond to protect the Obligee against defective work or labor done or defective materials furnished for a period of one year from and after the date of the completion and acceptance by **Montara Water & Sanitary District**.

NOW, THEREFORE, if the said Principal shall for a period of one year from and after the date of the completion and acceptance of same by said Obligee pay the reasonable and necessary cost of repair of defective work or labor done or defective materials furnished in the performance of the Agreement, then the above obligation to be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, Surety and Principal shall be given reasonable notice and opportunity to cure any such defects as a condition precedent to Surety's liability hereunder.

SEALED with our seals and dated this 23rd day August, 2021.

**Big Wave, LLC**

BY: \_\_\_\_\_

BY: Mary Baez  
Mary Baez, Attorney-in-Fact

**SureTec Insurance Company**

3033 Fifth Avenue ▪ Suite 300 ▪ San Diego, CA 92103  
619-400-4100 ▪ Toll Free 800-288-0351 ▪ Fax 619-400-4101

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Mateo )  
On August 23, 2021 before me, Deborah M. Knipp, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Mary Baez  
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 Deborah M. Knipp  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended 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: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_



# JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Mary Baez, Gregory D. McCartney, Sylvia McGovern

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifteen Million and 00/100 Dollars (\$15,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 24th day of March, 2021.

SureTec Insurance Company

By: [Signature]  
Michael C. Keimig, President

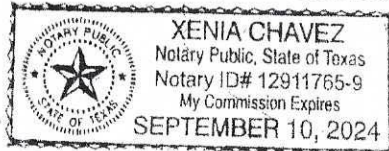


Markel Insurance Company  
By: [Signature]  
Undey Jennings, Vice President

State of Texas  
County of Harris:

On this 24th day of March, 2021 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



By: [Signature]  
Xenia Chavez, Notary Public  
My commission expires 9/10/2024

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 23rd day of August, 2021.

SureTec Insurance Company

By: [Signature]  
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By: [Signature]  
Andrew Marquis, Assistant Secretary

Any Instrument Issued in excess of the penalty stated above is totally void and without any validity. 510355  
For verification of the authority of this Power you may call (713)812-0800 on any business day between 8:30 AM and 5:00 PM CST.