

When Recorded Mail to:

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035
Attention: Office of the City Clerk

Record without fee under
Section 6103 - Government Code
State of California

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
APPROVING PARTIAL INITIAL ACCEPTANCE OF SEWER DEFICIENCY AND STRUCTURAL CORRECTION
PROGRAM, OPEN CUT PHASE 3
PROJECT NO. 6073

WHEREAS, the City of Milpitas has heretofore entered into a Contract with Precision Engineering, for Sewer Deficiency & Structural Correction Program, Open Cut Phase 3, Project No. 6073, and the City Engineer of the City of Milpitas has recommended acceptance of said improvement as completed in accordance with plans, specifications and approved change orders and correction lists, with the exception of the items in Exhibit A of the Delayed Item Agreement and in accordance with the final inspection of said City Engineer.

WHEREAS, said public improvements have been substantially completed less items stated in Delayed Item Agreement, but the improvement agreement provides that the bond shall extend for a period of one year after the date of said acceptance of said improvements to cover the guarantee period of said improvements under said agreement; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas does hereby accept said improvements as completed on this _____ day of _____, 2007. The penal sum of the faithful performance bond securing said remaining improvement shall be maintained at the sum of \$89,341.60. Upon request of principal and surety, said penal sum as reduced to apply from the date of completion and acceptance of said improvements and to extend for the balance of the term of said bond, provided that said term shall not be less than one year.

PASSED AND ADOPTED this _____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

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CITY OF MILPITAS

NOTICE OF COMPLETION
(Civil Code Section 3093)

NOTICE IS HEREBY GIVEN:

1. On or about **April 3, 2007** City of Milpitas, a municipal corporation of the State of California, whose address is City Hall, 455 East Calaveras Boulevard, Milpitas, California, 95035 (as owner) entered into a contract for work of improvement, to wit: **Sewer Deficiency and Structural Correction Program Open Cut Phase 3, Project No. 6073.**
2. A description of the site of which the City is owner for said work of improvement is City of Milpitas, Santa Clara County, California, more particularly described as: **Sewer Deficiency & Structural Correction Program.**
3. The nature and interest or estate of the City as owner of said site is in fee: **City sewer lines.**
4. The name and address of the original contractor is: **Precision Engineering, 92 Natoma St. Ste. 209, San Francisco, CA 94105.**
5. A general statement of the kind of work done or materials furnished to the City is as follows: **Sewer line replacement.**
6. The name of the sureties upon the bond of the Contractor for said work of improvement is: **Western Surety Company.**
7. Said work of improvement was accepted by the Milpitas City Council as completed on **August 21, 2007.**

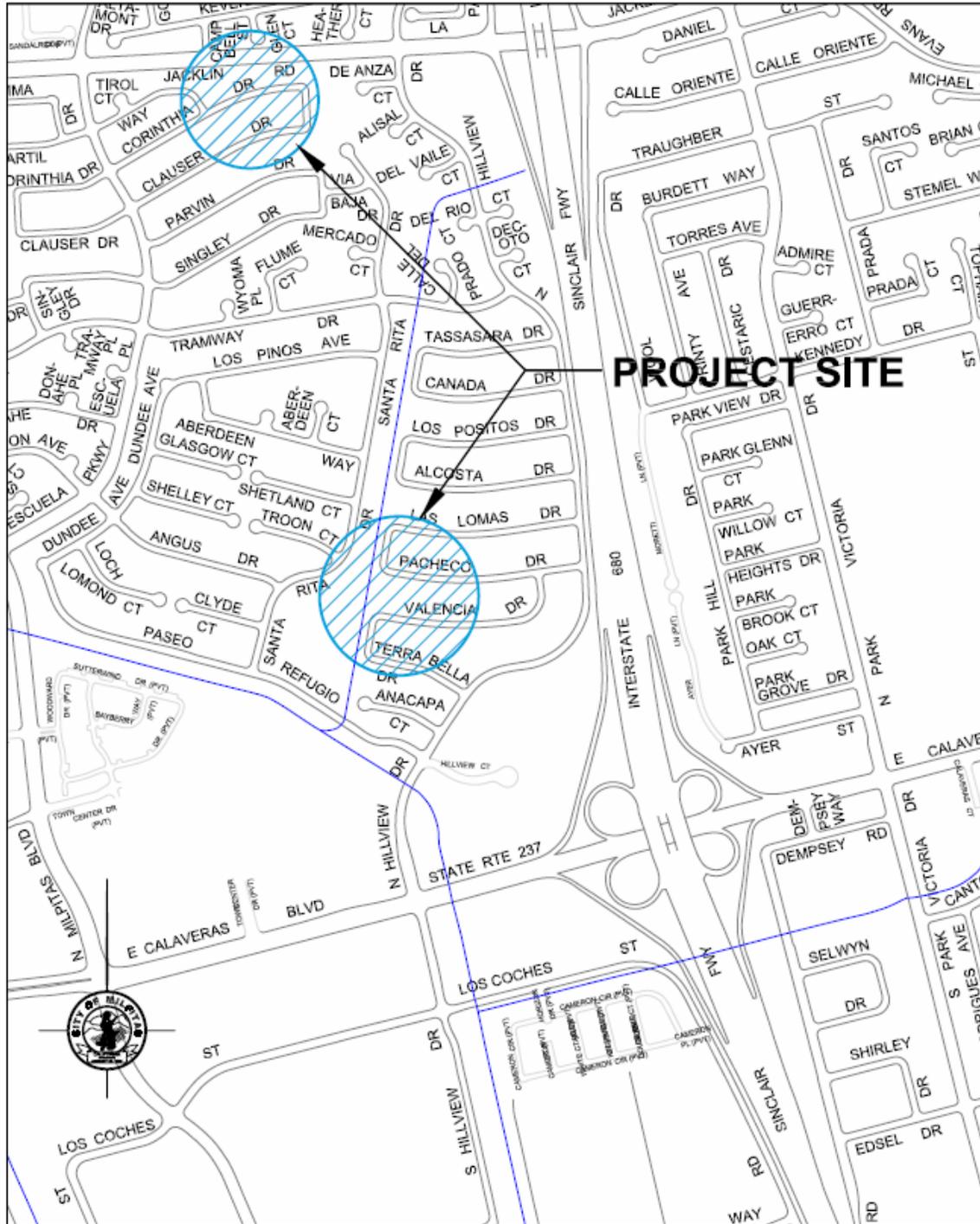
I, the undersigned, declare that I am the **City Engineer/PW Director** of the City of Milpitas and am authorized to execute the foregoing Notice of Completion and this Verification thereof. I have read the foregoing Notice of Completion. I declare under penalty of perjury that the foregoing Notice of Completion is true and correct. Executed on _____ at Milpitas, California.

Greg Armendariz, City Engineer/PW Director
City of Milpitas

NOTE: RECORD WITHIN 10 DAYS OF ACCEPTANCE WITH COUNTY RECORDER OF SANTA CLARA COUNTY

CITY OF MILPITAS

SEWER DEFICIENCY & STRUCTURAL CORRECTION PROGRAM PROJECT 6073 - OPEN CUT, PHASE 3



LOCATION MAP

DELAYED ITEM AGREEMENT

(SECURED BY EXISTING PERFORMANCE BOND)

This Agreement executed this 21st day of August, 2007, in Milpitas, California, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and Precision Engineering, Inc., (hereafter referred to as "Contractor"). In consideration of the mutual covenants and conditions herein contained, the parties agree as follows:

1. Contractor has heretofore executed an agreement with City hereafter referred to as "Contract" in which Contractor is required to make certain improvements further identified as Sewer Deficiency and Structural Correction Program, Open Cut, Phase 3, Project No. 6073. A portion of said improvements has been completed and a portion of said improvements are not yet completed. Contractor requests City to accept completed improvements. City will accept completed improvements in accordance with the provisions of said Contract and with this Agreement Re Partial Improvements.
2. The improvements listed on Exhibit A following this Agreement and made a part hereof by reference are not yet completed. Said improvements will be completed in accordance with said Contract before the end of the one-year warranty period. If said improvements have not been completed by the date, City, at its election may:
 - a. Extend the Contract and this Agreement for such time as it may elect;
 - b. Complete said improvements and, for that purpose, may expend or resort to any portion of the security provided in the Contract; if the cost of said improvement shall exceed the amount of security, City shall bill Contractor for the amount of such excess and Contractor agrees to pay City therefor within 30 days of dispatch of said bill;
 - c. Exercise any right or remedy, which City may have pursuant to law or contract to require the completion of said improvements;
 - d. The remedies herein shall be in addition to such other remedies as the law allows.
3. The acceptance of improvements by the City is upon the express condition precedent that said improvements have been made in accordance with the requirements of all applicable ordinances, resolutions, regulations, rules, conditions, permits or orders of City or contracts with City. Contractor understands and agrees that the final acceptance of all improvements cannot take place until all improvements listed on Exhibit A have been completed and the City has determined that the pipeline installed at site C1 is acceptable.

4. The Faithful Performance bond provided by Contractor pursuant to said Contract shall remain in full force and the execution of this Agreement to the sum of \$33,541.60.
5. All covenants herein are conditions. This Agreement may not be assigned by either party without the consent of the other. Time is of the essence.

IN WITNESS WHEREOF, the parties have executed the Agreement Re Partial Improvements the day and year first above written.

Approved as to Form:

City of Milpitas:

City Attorney Date

City Manager

Approved as to Content:

Contractor:

City Engineer Date

Precision Engineering, Inc.

EXHIBIT A

Open cut installation of new sewer pipe at Site C1 (750 Terra Bella north to Valencia):

The TVI (Television Inspection) of Site C1 – Terra Bella North to Valencia performed on July 6, 2007 showed several sags in the newly installed pipeline. Therefore this item of work cannot be accepted by the City at this time. Continued monitoring of the performance of this line during the one year warranty period, and reevaluation of this item at the time of the final inspection are required prior to City Council's Final acceptance of the project..

During the warranty period, Precision Engineering, at their expense, will be required to perform additional television inspections of the line with a sag measuring device on the camera, such as the one used on July 6, 2007, at six months and ten months following the City Council's initial acceptance of the remaining project items. Should any of the items listed in the Pipeline and Electronic Data Acceptance Criteria in Section E-22 of the Project Specifications occur during the warranty period, Precision Engineering will be required to make necessary repairs at no additional cost to the City.

During the warranty period, all requirements in the contract documents will remain in effect. Should any problems arise with the operation of this line, or any other line under this contract, Precision Engineering will be required to complete the necessary repairs at no additional cost to the City.