

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE REDUCTION OF FAITHFUL PERFORMANCE BOND IN PENAL SUM FOR THE SUBDIVISION IMPROVEMENTS FOR TRACT 9775, PROJECT NO. 3204

WHEREAS, certain subdivision improvements were constructed in Tract No. 9775, Project 3204, pursuant to the provisions of a Subdivision Improvement Agreement between the City of Milpitas, a municipal corporation of the State of California, and Western Pacific Housing, Inc., Subdivider; and

WHEREAS, said Subdivider, as principal, and Safeco Insurance Company of America, as surety, executed and posted faithful performance bond 6455640 for improvements approved for Tract No. 9775 and as required in the Subdivision Improvement Agreement for said tract; and

WHEREAS, more than 70% of the subdivision improvements have been completed; and

WHEREAS, the reduction in performance bond to an amount of \$485,547.00 is adequate to complete the remaining improvements; and

WHEREAS, the City Engineer of the City of Milpitas has made an inspection of said improvements as constructed in accordance with the approved plans and specifications of said Tract.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Presently, more than 70% of the subdivision improvements have been constructed in Tract No. 9775. Improvements included the following: water mains, sewer mains, street paving and landscape improvements in accordance with the approved plans and specifications.
3. The Subdivider shall be responsible for maintenance, loss and damage to the completed public improvements until all required public improvements have been fully completed in accordance with the plans and specifications and accepted by the City Council.
4. The penal sum of that faithful performance bond 6455640, furnished by the Subdivider, as principal, and the above named surety in connection with the Subdivision Improvement Agreement for said tract, may be reduced to the sum of \$485,547.00 upon request of said principal and surety. The reduced Bond shall remain in effect until such time 100% of improvements are completed and accepted by the City Council.
5. However, nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by the City of any obligations imposed upon the Subdivider or his surety, or sureties, by law or by the above referred to Subdivision Improvement Agreement, save and except as expressly set forth herein.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Robert Livengood, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney