

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING INITIAL ACCEPTANCE OF SUBDIVISION IMPROVEMENTS AND AUTHORIZING REDUCTION IN PENAL SUM OF SUBDIVISION IMPROVEMENT BOND**

**WHEREAS**, certain subdivision improvements were installed in Tract No. 9886, Town Center Residential, Project 3208, under and pursuant to the provisions of a Subdivision Improvement Agreement between the City of Milpitas, a municipal corporation of the State of California, and Shapell Industries of Northern California, subdivider; and

**WHEREAS**, said subdivider, as principal, and Liberty Mutual Insurance Company, bond 024028227, as surety, executed a certain faithful performance bond conditioned upon the faithful performance of the provisions of said Subdivision Agreement and upon the faithful performance of all improvement work required thereunder; and

**WHEREAS**, said subdivision improvements have been completed, but the improvement agreement provides that the bond shall extend for a period of one year after the date of said acceptance of said subdivision improvements to cover the warrantee period of said improvements under said Agreement; and

**WHEREAS**, the City Council is willing to consent to a reduction in the penal sum of said bond during said one-year period; and

**WHEREAS**, the City Engineer of the City of Milpitas has made a final inspection of said improvements and recommends that the City Council of the City of Milpitas accept the same as constructed in accordance with the approved plans and Specifications.

**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. That those certain subdivision improvements installed in Tract No. 9886, Town Center Residential, Project 3208, be and are hereby accepted as constructed in accordance with the approved plans and Specifications upon recommendation of the City Engineer of the City of Milpitas.
3. That the penal sum of that certain faithful performance bond furnished by the above named subdivider, as principal, and the above named surety in connection with that certain subdivision improvement agreement for the above designated subdivision, may be reduced to the sum of \$54,000, upon request of said 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.
4. Provided, however, that nothing herein contained shall in any way be deemed to be a waiver, release or relinquish by 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