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RESOLUTION NO. _____

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

WHEREAS, certain subdivision improvements were installed in Tract No. 9891 Calaveras Country Estates, Project No. 3179, 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 Calaveras Country Estates, LLC, a California limited liability company, subdivider; and

WHEREAS, said subdivider, as principal, and ACSTAR Insurance Company, as surety, executed a certain faithful performance bond, No. F20291, conditioned upon the faithful performance of the provisions of said subdivision improvement agreement and upon the faithful performance of all improvement work required thereunder; and

WHEREAS, said subdivision improvements have been completed, but the subdivision 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. Those certain subdivision improvements installed in Tract No. 9891 Calaveras Country Estates, Project No. 3179, 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. 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 $30,000.00, upon request of said principal and surety, said penal sum as reduced is 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 the City of Milpitas of any obligations imposed upon the subdivider or his surety, or sureties, by law or by the above-referenced 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:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Robert Livengood, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney