RESOLUTION NO. _____ ***6**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING INITIAL ACCEPTANCE OF SUBDIVISION IMPROVEMENTS INSTALLED IN TRACT NO. 9699, TERRA SERENA, PROJECT 3160

WHEREAS, certain subdivision improvements were installed in Tract No. 9699, Terra Serena, Project 3160, 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 KB Home South Bay, Inc., subdivider; and

WHEREAS, said subdivider, as principal, and The Continental Insurance Company, Bond 929388501, 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 warranty period of said improvements under said agreement; and

WHEREAS, the City Council on October 21, 2008 previously consented the reduction in the penal sum of said bond to $55,780.00, which is 10% of the original bond amount; 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 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. 9699 Terra Serena, Project 3160, be and are hereby initially 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 in the amount of $55,780.00 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, shall be maintained and continue 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.

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 accept as expressly set forth herein.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

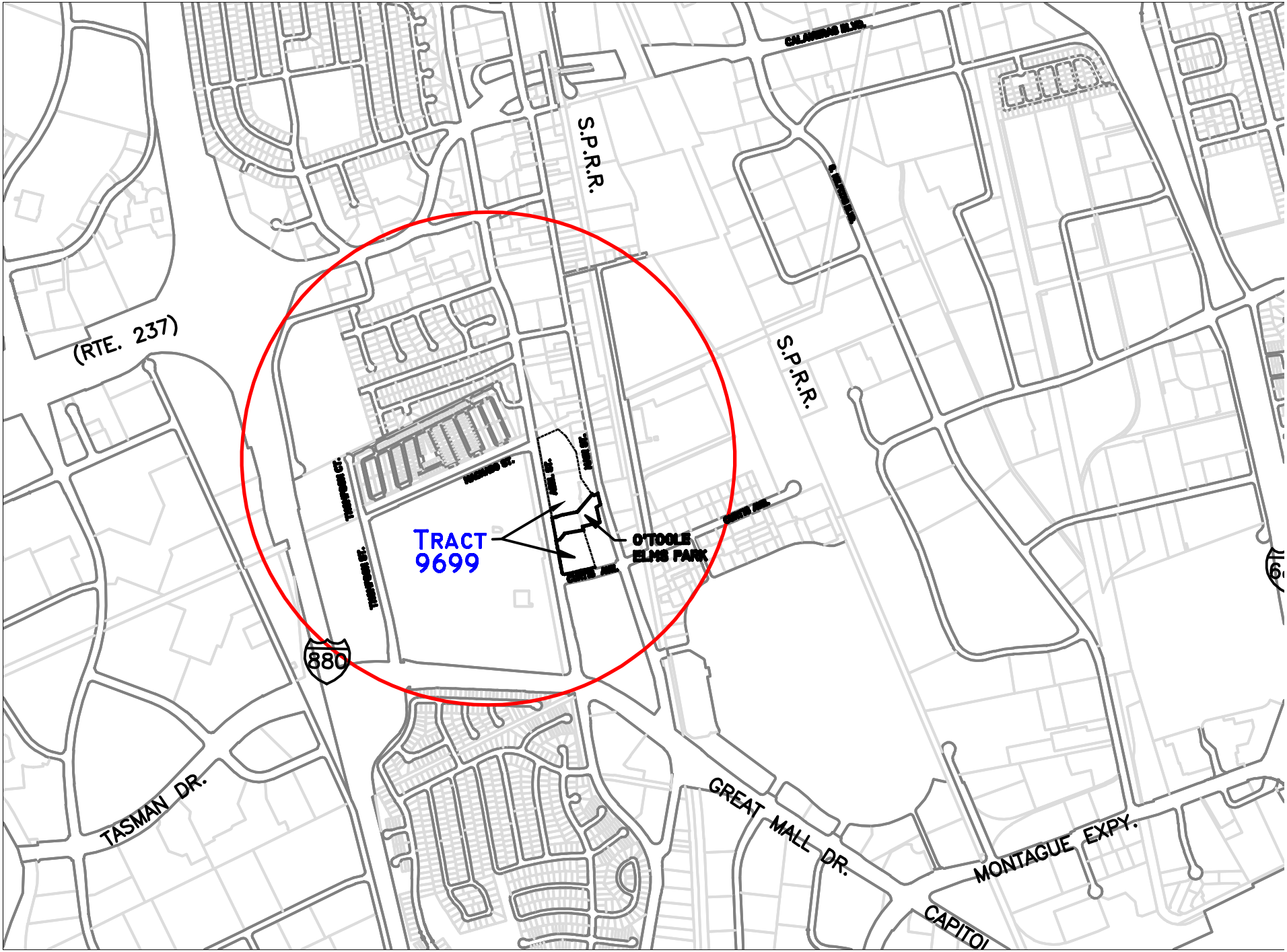
_____
Mary Lavelle, City Clerk

APPROVED:

_____
Robert Livengood, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney



VICINITY MAP

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