RESOLUTION NO. _____ ***10**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING FINAL ACCEPTANCE OF WATER SYSTEM AIR RELIEF VALVE MODIFICATIONS, PROJECT NO. 7086 PHASE II, AND RELEASING IMPROVEMENT BOND

WHEREAS, certain improvements were installed in Water System Air Relief Valve Modifications, Project No. 7086, phase II, under and pursuant to the provisions of an improvement contract between the City of Milpitas, a municipal corporation of the State of California, and West Valley Construction Company, as contractor; and

WHEREAS, said contractor, as principal, and the Safeco Insurance Company of America, as surety, executed a certain faithful performance bond conditioned upon the faithful performance of the provisions of said improvement contract and upon the faithful performance of all improvement work required thereunder; and

WHEREAS, said improvements were completed, finally inspected by the City Engineer of the City of Milpitas, and accepted; and

WHEREAS, a period of one year or more has expired after the date of said acceptance of said improvements; and

WHEREAS, the City Engineer has advised said City Council that said contractor has remedied, restored, repaired, or replaced at his sole expense and to the satisfaction of said City Engineer all defects, damages, or imperfections, if any there were, due to or arising from faulty materials or workmanship and appearing within said period of one year from the date of acceptance; and

WHEREAS, said City Engineer recommends to the City Council that said faithful performance bond be released.

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. The certain performance bond furnished by the above-named contractor, as principal, and the above-named surety in connection with those certain improvements for the above-designated project, is hereby released and discharged; provided, however, that nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the contractor or his surety, or sureties, by law or by the above-referenced improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this _____ day of _____, 2010, 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