RESOLUTION NO. _____ ***6**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING FINAL ACCEPTANCE OF SOUNDWALL RENOVATION, PROJECT NO. 4267, AND RELEASE OF THE CONTRACTOR'S BOND

WHEREAS, certain improvements were installed by the Soundwall Renovation, Project No. 4267, under and pursuant to the provisions of an improvement contract between the City of Milpitas, a municipal corporation of the State of California, and Ashron Construction and Renovation Inc.; and

WHEREAS, said contractor, as principal, and the Contractors Bonding and Insurance Company, 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 its 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 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. The City of Milpitas does finally accept said improvements. That 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 its 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 _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM

_____
Michael J. Ogaz, City Attorney