

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
APPROVING FINAL ACCEPTANCE OF MIL ASPEN FAMILY APARTMENTS
PUBLIC IMPROVEMENTS, PROJECT NO. 3199, AND RELEASING IMPROVEMENT BOND**

WHEREAS, certain improvements were installed in the Milpitas Aspen Family Apartments, Project No. 3199, under and pursuant to the provisions of an improvement contract between the City of Milpitas, a municipal corporation of the State of California, and MIL Aspen Associates, a California Limited Partnership (Subdivider); and

WHEREAS, Subdivider, as principal, and Bond Safeguard Insurance Company, as surety, executed a certain faithful performance bond conditioned upon the faithful performance of the provisions of said improvement agreement and upon the faithful performance of all improvement work required thereunder; and

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

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

WHEREAS, said City Engineer recommends to the City Council that the 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 the improvements. That certain performance bond furnished by the above-named Subdivider, 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 Subdivider or its surety or sureties, by law or by the above-referenced improvement agreement, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this _____ day of _____ 2013, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney