

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING FINAL ACCEPTANCE OF SOUTH MAIN STREET MEDIAN IMPROVEMENTS (PARAGON) PROJECT NO. 3204 AND RELEASE OF THE DEVELOPER’S WARRANTY BOND**

**WHEREAS**, the City Council of the City of Milpitas on February 21, 2012, approved the plans and specifications for the South Main Street Median Improvements, Project No. 3204 (the “Project”) to be completed by Western Pacific Housing, Inc., a Delaware Corporation (“Developer”) as part of its residential development on South Main Street; and

**WHEREAS**, the City of Milpitas entered into a subdivision improvement agreement on February 6, 2007 with Western Pacific Housing, Inc. for the Paragon Townhomes Project; and

**WHEREAS**, said Developer, as principal, and the Developer’s Bonding and 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**, 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 the City Council that Developer 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 Developer, as Principal, and the above-named Surety in connection with those certain improvements for the above-designated project, are 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 Developer 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 \_\_\_\_\_, 2015, 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