15

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
ACCEPTING PUBLIC IMPROVEMENTS AND AUTHORIZING REDUCTION
IN PENAL SUM OF PUBLIC IMPROVEMENT BOND

WHEREAS, certain public improvements were installed in, Project No. 3120 under and pursuant to the provisions of a public improvement agreement between the City of Milpitas, a municipal corporation of the State of California and Avatamsaka Buddhist Lotus Society; and

WHEREAS, said developer, as principal, Cathay Bank, bond Letter of Credit ISBSMH040107 and ISBSMH040105, as surety, executed a certain Letter of Credit 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 public 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 public improvements to cover the warrantee period of said improvements under said agreement; and

WHEREAS, the City Council is willing to consent to a reduction in the penal sum of said bond during said one-year period;

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, BE IT RESOLVED by the City Council of the City of Milpitas as follows:

1. That those certain public improvements installed at 50 South Main Street, Improvement Plan No. 2-1008 Project No. 3120, be and are hereby accepted as constructed in accordance with the approved plans and Specifications upon recommendation of the City Engineer of the City of Milpitas.

2. That the penal sum of that certain Faithful Performance Bond Letter of Credit ISBSMH040107, furnished by the above named developer, as principal, and the above named bank in connection with that certain public improvement agreement for the above designated public improvements, may be reduced to the sum of $ 12,500.00, upon request of said developer and bank, said penal sum as reduced to apply from the date of completion and acceptance of said improvements and to extend for the balance of the term of said bond.

3. That the penal sum of that certain Labor and Material Bond Letter of Credit ISBSMH040105, in the sum of $125,000.00, shall continue in full force. However, if there are no outstanding claims on file with the City Attorney's office after a period of six months after the date of initial acceptance as stated on the resolution, the bond may be released, per Municipal Code XI-1-17, or, June 6, 2006

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 developer or his bank, or sureties, by law or by the above referred to public improvement agreement, save and accept as expressly set forth herein.

PASSED AND ADOPTED this_____ of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

BLVD
WINSOR
ST
CALAVERAS
ST
CARLO
BUDDHIST TEMPLE
S
MAIN
ST
N
Scale: 1" = 80'