

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING  
ACCEPTANCE AND REDUCING PERFORMANCE BOND OF COYOTE CREEK  
TOWNHOMES SUBDIVISION, TRACT NO. 10087 AND GRANTING AUTHORIZATION TO  
THE CITY ENGINEER TO RELEASE THE PERFORMANCE BOND AFTER THE ONE-YEAR  
WARRANTY PERIOD**

**WHEREAS**, the City Council of the City of Milpitas on February 21, 2012, approved the plans and specifications for the Coyote Creek Townhomes Subdivision, Tract No. 10087, (the "Project") to be completed by ORA Murphy Ranch 285, LLC, as part of its residential development on 601 Murphy Ranch Road; and

**WHEREAS**, the City of Milpitas has heretofore entered into a subdivision improvement agreement on February 21, 2012 with ORA Murphy Ranch 285, LLC, for the Coyote Creek Townhomes Subdivision; and

**WHEREAS**, ORA Murphy Ranch 285, LLC, as Principal, and International Fidelity Insurance Company, as Surety, executed and posted a certain Performance Bond No. 0570345 conditioned upon the faithful performance of the provisions of said subdivision improvement agreement and upon the faithful performance of all improvement work required thereunder; and

**WHEREAS**, said public improvements for Coyote Creek Townhomes Subdivision have been completed and the subdivision improvement agreement provides that the security shall extend for a period of one year after the date of acceptance of said improvements to cover the warranty 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 security during said one year warranty period; and

**WHEREAS**, the City Engineer of the City of Milpitas has made a final inspection of said improvements for the Coyote Creek Townhomes Subdivision 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**, 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. Those certain public improvements constructed as part of the Coyote Creek Townhomes Subdivision, Tract No. 10087, are hereby accepted as constructed in accordance with the approved plans and specifications upon recommendation of the City Engineer of the City of Milpitas.
3. The penal sum of the faithful performance bond securing said improvements may be reduced to the sum of \$30,000, upon request of Principal and Surety, with 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 one year of said security. 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 surety, or sureties, by law or by the above referendum public improvement agreement, save and except as expressly set forth herein.

4. The City Council grants authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney