

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
ACCEPTANCE OF AND REDUCING PERFORMANCE BOND FOR CENTRE POINTE
SUBDIVISION, TRACT NO. 10363 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 October 18, 2016, approved the plans and specifications for the Centre Pointe Subdivision, Tract No. 10363, (the "Project") to be completed by D.R. Horton CA3, Inc. as part of its residential development on 1463, 1515, 1557 & 1585 Centre Pointe Drive; and

WHEREAS, the City of Milpitas has heretofore entered into a Subdivision Improvement Agreement on October 18, 2016, with D.R. Horton CA3, Inc., for the Centre Pointe Subdivision; and

WHEREAS, D.R. Horton CA3, Inc., as Principal, and RLI Insurance Company, as Surety, executed and posted a certain Performance Bond No. CMS291942 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 Centre Pointe 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 Centre Pointe 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 Centre Pointe Subdivision, Tract No. 10363, 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 \$97,800, 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 referend 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 _____, 2020, 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