



**FOSTER CITY COMMUNITY DEVELOPMENT AGENCY,
CITY OF FOSTER CITY/
ESTERO MUNICIPAL IMPROVEMENT DISTRICT
FOSTER CITY COUNCIL CHAMBERS
620 FOSTER CITY BOULEVARD
FOSTER CITY, CALIFORNIA**

AGENDA

Monday, August 2, 2010 6:30 PM

**REGULAR MEETING AS COMMUNITY DEVELOPMENT AGENCY (CDA)
MEMBERS**

1. CALL TO ORDER

2. ROLL CALL

Directors Charlie Bronitsky, Pam Frisella, Art Kiesel, Linda Koelling, and Chair Rick Wykoff

3. PUBLIC

FCMC 2.08.240 Addressing the Council. "...Each person desiring to address the Council shall step up to the public rostrum after being recognized to speak by the presiding officer, shall state his/her name and address for the record, state the subject he/she wishes to discuss, state who he/she is representing if he/she represents an organization or other persons and, unless further time is granted by majority vote of the Council, shall limit his/her remarks to five minutes. The City Council may vary the time limit for any speaker, if it deems this necessary."

4. CONSENT CALENDAR

All matters listed under Consent Calendar are considered to be routine by the Agency and will be enacted by one motion unless removed by a member of the CDA Board, staff, or public. There will be no separate discussion on these items. If discussion is required, that item will be removed from the Consent Calendar and will be considered separately after approval of the remaining items on the Consent Calendar. Vote may be by roll call.

4.1 Other

- 4.1.1** Cancel the August 16, 2010 Regular Meeting of the Community Development Agency Board

5. ADJOURNMENT

REGULAR MEETING AS CITY COUNCIL/EMID BOARD OF DIRECTORS

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Councilmembers/ex officio EMID Directors Charlie Bronitsky, Pam Frisella, Art Kiesel, Linda Koelling, and Mayor/President Rick Wykoff

4. PUBLIC

FCCM 2.08.240 Addressing the Council. "...Each person desiring to address the Council shall step up to the public rostrum after being recognized to speak by the presiding officer, shall state his/her name and address for the record, state the subject he/she wishes to discuss, state who he/she is representing if he/she represents an organization or other persons and, unless further time is granted by majority vote of the Council, shall limit his/her remarks to five minutes. The City Council may vary the time limit for any speaker, if it deems this necessary."

5. CITY/EMID CONSENT CALENDAR

All matters listed under Consent Calendar are considered to be routine by the City Council/EMID Board of Directors and will be enacted by one motion unless removed by a member of the Council/Board, staff, or public. There will be no separate discussion on these items unless a citizen or a Council/Board member so requests. If discussion is required, that item will be removed from the Consent Calendar and will be considered separately after approval of the remaining items on the Consent Calendar. Vote may be by roll call.

- 5.1** City Ordinances for Adoption [First City Ordinance Number to be used tonight is 558]

- 5.1.1** An Ordinance of the City of Foster City Approving Amendments to Sub-Section 15.12.200 (C)(2)(E), of Section 15.12.200 Signs Allowed for Specific Uses of Chapter 15.12, Sign Control, of Title 15, Buildings and Construction, of the Foster City Municipal Code to Allow One (1) Additional Non-Illuminated Wall Sign on Office Buildings Four (4) or Five (5) Stories in Height – City of Foster City – MC-09-001 [First Reading July 19, 2010]

5.2 City Other

5.2.1 Cancel the August 16, 2010 Regular Meeting of the City Council of the City of Foster City

5.3 EMID Resolutions for Adoption First EMID Resolution Number to be used tonight is 3115]

5.3.1 A Resolution of the Board of Directors of the Estero Municipal Improvement District Authorizing the President to Execute a Contract Agreement with Anderson Pacific Engineering Construction, Inc. for (CIP 603) Sanitary Sewer Lift Station Improvements Phase 4, and Approving Additional Budget Augmentation of \$940,000 from the Wastewater-CIP Fund
a. Staff Report

5.4 EMID Other

5.4.1 Cancel the August 16, 2010 Regular Meeting of the Estero Municipal Improvement District

6. COUNCIL/BOARD STATEMENTS AND REQUESTS

7. CLOSED SESSION

7.1 Public Employee Performance Evaluation [Government Code 54957] for City/District Manager

8. ADJOURNMENT

The public is invited to attend.

Any attendee wishing special accommodations at the meeting should contact the City Clerk's Department at (650) 286-3250 at least 48 hours in advance of the meeting.

Any writings or documents provided to a majority of the CDA Board, City Council, or EMID Board regarding any item on this agenda after the agenda packet was distributed will be made available for public inspection in the City Clerk Department at City Hall located at 610 Foster City Boulevard during normal business hours and at the meeting.

City Council meetings on FCTV are aired on Comcast Channel 27 and AT&T Channel 99:

LIVE every 1st and 3rd Monday of the month

REPLAY the very next day at 1:00 pm (that week only)

REPLAY of the Council meeting on Saturday at 5:00 pm (only on Saturday the week the actual meeting occurs)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FOSTER CITY APPROVING AMENDMENTS TO SUB-SECTION 15.12.200 (C)(2)(E), OF SECTION 15.12.200 SIGNS ALLOWED FOR SPECIFIC USES OF CHAPTER 15.12, SIGN CONTROL, OF TITLE 15, BUILDINGS AND CONSTRUCTION, OF THE FOSTER CITY MUNICIPAL CODE TO ALLOW ONE (1) ADDITIONAL NON-ILLUMINATED WALL SIGN ON OFFICE BUILDINGS FOUR (4) OR FIVE (5) STORIES IN HEIGHT – CITY OF FOSTER CITY – MC-09-001

CITY OF FOSTER CITY

THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES FIND AND ORDAIN as follows:

Section 1. The City Council, based on facts and analysis in the Staff Reports, written and oral testimony, and exhibits presented, finds:

1. Sony Computer Entertainment America, Inc. and Equity Office Properties have requested an amendment to the Foster City Municipal Code to allow business identification signage on the top story of buildings with four or more stories;
2. A Planning Commission Study Session was held on April 1, 2010 to review the proposal to allow two (2) additional business identification signs on the top story of buildings with four or five stories;
3. At the April 1, 2010 Study Session, the Planning Commission determined that one (1) additional non-illuminated sign would be considered appropriate;
4. The proposal has been determined by the Community Development Director to be categorically exempt from the California Environmental Quality Act of 1970;
5. A Notice of Public Hearing was duly posted, published, and mailed for consideration of the Municipal Code Text Amendment request at the Planning Commission meeting of June 17, 2010, and on said date, the Public Hearing was opened, held and closed;
6. The Planning Commission recommend approval of the proposed amendments by adoption of Resolution P-10-10;
7. A Notice of Public Hearing was duly posted, published, and mailed for consideration of the City Council meeting of July 19, 2010, and, on said date, the Public Hearing was opened, held and closed.

Section 2. The amendments to the Foster City Municipal Code are hereby amended, as contained in Exhibit A, attached hereto and incorporated herein.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 5. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 19th day of July, 2010, and passed and adopted on the _____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RICK WYKOFF, MAYOR

ATTEST:

DORIS L. PALMER, CITY CLERK

EXHIBIT A

(Approved by the City Council on _____)

Section 15.12.200.C.2, Office Building or Major Tenant Identification, of Chapter 15.12, Sign Control, of Title 15, Buildings and Construction, of the Foster City Municipal Code shall be amended as follows:

2. Office Building or Major Tenant Identification (Wall Identification Sign)

a. One Wall identification sign shall be allowed to be located on the primary business frontage of each building, to identify that building or major tenant. Buildings located on a corner of a public street intersection and not a part of an office center shall be also allowed one additional wall identification sign on the secondary business frontage.

b. For buildings not a part of an office center or where site design warrants as determined by the planning director, a freestanding sign not to exceed eight feet in height may be allowed in lieu of a wall identification sign.

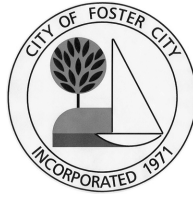
c. The sign area allowed for the primary business frontage wall identification sign shall be one-quarter square foot of sign area for each one linear foot of business frontage of twenty-five square feet, whichever is less. The sign area allowed for the secondary business frontage wall identification sign shall not exceed fifty percent of that allowed for the primary business frontage sign.

d. Identification signs on primary and secondary business frontages may be internally or externally illuminated if a wall identification sign, or externally illuminated if a freestanding sign.

e. In addition to the sign(s) allowed pursuant to subsections a, b, c, and d above, on office buildings four stories or more in height, additional wall identification signs may be allowed, pursuant to a sign use permit, subject to the following:

- i. Wall identification signs shall be located on the affected wall surface as defined in Section 15.12.020 of this chapter.
- ii. Wall identification signs shall be limited to federally registered corporate logos.
- iii. For office buildings four or five stories in height, one additional non-illuminated wall identification sign may be allowed
- iv. For office buildings six stories or more two additional wall identification signs may be allowed: Only one wall identification sign in addition to any identification sign(s) approved pursuant to subsections a, b, c, and d above, shall be allowed per building elevation. If two wall identification signs are permitted, they shall be located on opposite corners of their respective elevations or at least fifty feet apart on their respective elevations and the two permitted wall identification signs may display the same or two different federally registered corporate logos.

- v. Wall identification signage must be proportionate to the wall size, shall not be placed or located within seventy-five feet of a residential zoning district measured both horizontally and vertically and may have halo back-lighting only.
- vi. Wall identification signs shall be in balance in both dimension and placement within the affected wall surface area and shall not exceed twelve percent of the total square footage of the affected wall surface area.
- vii. Submittal requirements for wall identification signage shall include a complete city application and a sign use permit, time and materials deposit/fees, a colors and materials board, and ten sets of information containing all of the following: 1) a letter from the owner of the subject building authorizing the proposed wall identification sign to be placed on the building as depicted on the plans submitted to the city; 2) architectural elevation plans of the subject building drawn at not less than one-inch scale for the affected wall surface area on which the sign is proposed to be placed, that includes the subject wall identification sign drawn to scale; 3) a scaled eleven by fourteen inch color photomontage that includes the proposed subject wall identification sign.



DATE: August 2, 2010

TO: President and Members of the EMID Board of Directors

VIA: James C. Hardy, District Manager

FROM: Ramon M. Towne, Director of Public Works
Allan Shu, Associate Civil Engineer

SUBJECT: (CIP 603) SANITARY SEWER LIFT STATION IMPROVEMENTS –
PHASE 4 – AWARD OF CONTRACT TO ANDERSON PACIFIC
ENGINEERING CONSTRUCTION, INC. AND APPROVE ADDITIONAL
BUDGET AUGMENTATION OF \$940,000 FROM WASTEWATER-CIP
FUND

RECOMMENDATION

It is recommended that the Board of Directors of the Estero Municipal Improvement District adopt the attached resolution authorizing:

1. Execution of an agreement with Anderson Pacific Engineering Construction, Inc. in the amount of \$4,139,905 for the construction of (CIP 603) Sanitary Sewer Lift Station Improvements Phase 4; and
2. Establishing a contingency in the amount of \$350,000 with authorization given to the District Manager to execute contract change orders up to the contingency amount; and
3. Additional budget augmentation of \$940,000 from the Wastewater-CIP Fund to supplement existing project budget to fully fund construction.

EXECUTIVE SUMMARY

Four (4) bids were received and opened on Friday, July 16, 2010, at 2:00 PM. After reviewing the bids, the bid submitted by Anderson Pacific Engineering Construction, Inc. (Anderson Pacific) in the amount of \$4,139,905 was determined to be the lowest responsible and responsive bid. Currently, the project budget has an unencumbered balance of approximately \$3.6 million. Additional funding in the amount of \$940,000 is requested to fully fund the project. \$940,000 is available in the Wastewater-CIP Fund.

BACKGROUND

At its June 21, 2010 meeting, the Board of Directors adopted Resolution No. 3106 approving the plans and specifications, and authorizing the call for bids for the project. Legal advertising notices were published in the Daily Pacific Builder, Daily Construction Service, and the local newspaper, the Islander. Notices were posted on the City's website. Staff also contacted many of the contractors experienced in similar type of work to generate interest and encouraged participation in the bidding process. A total of 21 general and subcontractors purchased the plans and specifications.

CIP 603 is the fourth in a series of projects to rehabilitate existing sanitary sewer lift stations and is intended to improve the reliability of the wastewater collection system. The design criteria, plans, and specifications developed for the previous phases were used as the basis for this project. Based on the District Board's direction to take advantage of the favorable bidding climate, this phased project was expanded to include more than typical improvements performed in previous phases. In addition to six lift stations (five lift stations were rehabbed in Phase 3) included for full rehabilitation, CIP 603 includes replacement of two (2) emergency generators, one (1) portable generator, three (3) electrical cabinets, and a new Supervisory Control and Data Acquisition (SCADA) network utilizing a licensed radio frequency. Licensed radio frequency allows the District's SCADA network to operate on a dedicated frequency. By not sharing the frequency with other users such as PG&E SmartMeter program, the speed of polling will improve significantly as well as eliminate communications failure alarms, currently experienced by the system due to radio interference. Since communication failure alarms often result in callouts, reducing alarms after normal work hours will reduce overtime pay.

Most of the lift stations were constructed in the 1960's and the station components have exceeded their useful life. The full rehabilitation of the lift stations include installing permanent sewer bypass connections; repairing corroded wet well concrete; installing new protective coatings; replacing electrical components and control cabinets; and replacing valves, pumps, and appurtenant fittings. Many of these components will be replaced with non-corrosive stainless steel parts. The existing electrical cabinets do not meet current industry standards and will also be replaced. Larger wet well and bypass vault openings will be provided. The openings will be fitted with spring-loaded hatches that allow for safer employee access into a confined air space environment. The new hatches will be traffic rated and create less noise when vehicles drive over them. Damaged concrete inside the wet well walls will be repaired and corrosion resistant polyurethane coating will be applied to prevent future corrosion. Sagging inlet pipes will be replaced. Sags in the pipe are caused by the differential settlement around the lift station wet wells. Based on our experience, with the proposed improvements and continued preventative maintenance, the useful life of these lift stations will be extended by several decades.

During construction, local vehicular and pedestrian traffic may experience minor delays and inconveniences in the vicinity of the job site. Adequate signage will be provided at each location to direct traffic. Detours maybe necessary at certain locations to move

traffic safely through the work area. Construction advisory notices will be distributed to inform the residents.

ANALYSIS

Bids for this project were opened on Friday, July 16, at 2:00 PM, with the following results.

Name of Company	Total Bid	Over/(Under) Engineer's Estimate (\$)	Over/(Under) Engineer's Estimate (%)
Engineer's Estimate dated 6/17/10	\$5,205,301.00	--	--
Anderson Pacific	\$4,139,905.00	(\$1,065,396.00)	(20.5)
GSE Construction Co.	\$4,901,702.00	(\$303,599.00)	(5.8)
Aztec Constructors, Inc.	\$5,016,144.93	(\$189,156.07)	(3.6)
Ranger Pipelines, Inc.	\$6,101,087.50	\$895,786.50	17.2

The apparent lowest responsible and responsive bid in the amount of \$4,139,905 was submitted by Anderson Pacific. As shown in the table, the low bid is \$1,065,396 or 20.5 percent under the Engineer's Estimate. The second low bid submitted by GSE Construction is \$761,797 or 18.4 percent higher than Anderson Pacific's bid. GSE Construction's bid is \$303,599 or 5.8 percent lower than the Engineer's Estimate. Aztec Constructors made a few mathematical errors in their bid but the outcome did not change the bid order.

Staff contacted the references listed by Anderson Pacific and received positive comments regarding their performance. Staff spoke with Anderson Pacific and received assurance that they understand the scope of work involved and are comfortable with the bid submitted. Anderson Pacific has completed many projects successfully in the City including Phase 1 and Phase 2 of this project. Anderson Pacific has a valid and active contractor's license.

Funding balance of approximately \$3.6 million is available in the project budget. A contingency of \$350,000 or approximately 8.5% of the bid amount is requested to mitigate unforeseen conditions. It is typical to establish 10 to 15% contingency for underground construction projects to mitigate unknown conditions. For reference, 15% construction contingency was established for the (CIP 784) Sanitary Sewer Lift Station Improvements – Phase 3 Project, completed in 2008. However, the contingency was not necessary, and not used. Approximately \$375,000 was returned to the Wastewater-CIP Fund after Phase 3 was completed. Similarly, any unused balance will be returned to the Wastewater-CIP Fund when this project is complete.

Unforeseen conditions unique to this type of project include:

- Due to the highly corrosive environment within the lift stations some components may be in a worse condition than anticipated and replacement of additional components may be required.

- Due to high ground water table in Foster City, more effort may be required to control water intrusion at the work area, including well point dewatering.
- The scope of work includes extensive trenching to replace conduits and piping. Therefore, the potential exists in uncovering undocumented utilities requiring relocation or repairs.
- Many of these lift stations are in established neighborhoods or in parks and are in close proximity to residential properties. More extensive restorations may be required after construction is done.

Based on the available funding and the bid submitted by Anderson Pacific, additional funding of \$940,000 is requested to fully fund construction. The project budget summary is below.

Approved Budget

Approved CIP Funding	\$ 3,450,000	
Approved Transfer	<u>\$ 663,250</u>	(Equipment Replacement Fund)
Total Available for Project	\$ 4,113,250	

Encumbered to Date

Consulting Engineering	\$ 470,050	(B&C)
Approximate Misc. Expenses	\$ 10,000	(Printing, Advertising)
Engineering Peer Review	<u>\$ 9,100</u>	(Kennedy/Jenks)
Sub-Total Engineering	\$ 489,150	

Funding Available **\$ 3,624,100**

Construction Related Expenses

Construction Contract	\$ 4,139,905	(Anderson Pacific)
Construction Contingency	\$ 350,000	(~8.5 percent)
Testing and Inspection	\$ 30,000	
Misc. Expenses	<u>\$ 44,000</u>	
Total Construction Expense	\$ 4,563,905	

Budget Shortfall **\$ 939,805 (\$940,000 Requested)**

Staff was aware of the possible budget shortfall based on the Engineer's Estimates and disclosed that information in the June 21, 2010 staff report. An alternative to a budget augmentation is to reduce the scope of work to stay within the available funding. The Contract Documents allows the District to eliminate work at one or more of the lift stations. After a detailed review of the bid breakdown, staff is convinced the construction costs are competitive and in line with existing market conditions. Consequently, it is recommended that a budget augmentation of \$940,000 be approved to fully fund the project. With the budget augmentation, total available is approximately \$4.56 million. Any remaining funds left after the project is completed will be returned to the Wastewater-CIP Fund. There will be no impact on the wastewater rates as a result of this budget augmentation. Construction is anticipated to take approximately eleven (11) months.

Attachment: District Resolution
Agreement

cc: Subject/Chron

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT AUTHORIZING THE PRESIDENT TO EXECUTE A CONTRACT AGREEMENT WITH ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC. FOR (CIP 603) SANITARY SEWER LIFT STATION IMPROVEMENTS PHASE 4, AND APPROVING ADDITIONAL BUDGET AUGMENTATION OF \$940,000 FROM THE WASTEWATER-CIP FUND

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

WHEREAS, the Board of Directors adopted Resolution No. 3106 on June 21, 2010, approving plans and specifications and authorizing a "Call for Bids" for (CIP 603) Sanitary Sewer Lift Station Improvements Phase 4; and

WHEREAS, four (4) bids were received and opened on July 16, 2010 at 2:00 PM; and

WHEREAS, Anderson Pacific Engineering Construction, Inc. submitted an apparent low bid in the amount of \$4,139,905; and

WHEREAS, following an analysis of the low bid, it was determined that Anderson Pacific Engineering Construction, Inc.'s bid was responsible and responsive and bid prices are reasonable for the scope of work involved; and

WHEREAS, a budget contingency of \$350,000 will provide for potential unforeseen conditions; and

WHEREAS, an additional budget augmentation of \$940,000 is required to fully fund construction; and

WHEREAS, funding for the budget augmentation is available in the Wastewater-CIP Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Estero Municipal Improvement District hereby authorizes:

1. Execution of an agreement with Anderson Pacific Engineering Construction, Inc. in the amount of \$4,139,905 for the construction of (CIP 603) Sanitary Sewer Lift Station Improvements Phase 4; and

RESOLUTION NO. _____

2. Establishing a contingency in the amount of \$350,000 with authorization given to the District Manager to execute contract change orders up to the contingency amount; and
3. Additional budget augmentation of \$940,000 from the Wastewater-CIP Fund to supplement existing project budget to fully fund construction.

PASSED AND ADOPTED as a Resolution of the Board of Directors of the Estero Municipal Improvement District at the regular meeting held on the 2nd day of August, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RICK WYKOFF, PRESIDENT

ATTEST:

DORIS L. PALMER, DISTRICT SECRETARY

SECTION 00510

AGREEMENT
FOR PUBLIC IMPROVEMENTS

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

THIS AGREEMENT, is made on _____ by and between Anderson Pacific Engineering, Inc. (Contractor) whose place of business address is located at 1390 Norman Avenue, Santa Clara, CA 95054.

Anderson Pacific Engineering, Inc., and the Estero Municipal Improvement District (District), acting under and by virtue of the authority vested in District by the laws of the State of California.

WHEREAS, District, by its Resolution No. _____ adopted on the 2nd day of August, 2010.

(a copy of which is attached to, and made a part of, this Agreement), awarded to Contractor the following contract:

Sanitary Sewer Lift Station Improvements Phase 4 (CIP 603)

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Contractor and District agree as follows:

Article I. Work

- 1.1 Contractor shall complete all Work specified in the Contract Documents, in strict accord with the plans, specifications, and all other terms and conditions of the Contract Documents.

Article II. Contract Time and Liquidated Damages

2.1 Contract Time.

The Work will be Substantially Complete within calendar days from the date when the Contract Time commences to run as provided in Section 00800, Supplementary Requirements.

The Work will be Finally Complete and ready for final payment in accordance with Section 01150, Contract Payments, thirty-five (35) calendar days from the filing date of Notice of Completion.

2.2 Liquidated Damages.

District and Contractor recognize that time is of the essence of this Agreement and that District will suffer financial loss in the form of contract administration expenses (including project management and consultant's expenses), if Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the Contract Documents. Consistent with Section 00800, Supplementary Requirements, Contractor and District agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by District because of a delay in completion of the Work. Accordingly, District and Contractor agree that as liquidated damages for delay Contractor shall pay District:

2.2.1 \$1,500 for each calendar day that expires after the time specified herein for Contractor to achieve Substantial Completion.

These measures of liquidated damages shall apply cumulatively and shall be presumed to be, except as provided below, the damages suffered by District resulting from delay in completion of the Work.

2.3 Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, lost revenues and general loss of public use damages suffered by District as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from defective work, costs of substitute facilities, or damages suffered by others who then seek to recover their damages from District (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof. District may withhold from Contractor's progress payments the amount of accrued liquidated damages.

Article III. Contract Price

3.1 District shall pay Contractor the Contract Sum for completion of Work in accordance with Contract Documents as follows: \$4,139,905.

Article IV. Contractor's Representations

In order to induce District to enter into this Agreement, Contractor makes the following representations and warranties:

4.1 Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work that relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.

- 4.2 Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as built-drawings, drawings or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, which are identified in Section 00220, Geotechnical Data and Existing Conditions, or which may appear in the Drawings, and accepts the determination set forth in these documents and Section 00700, General Conditions and Section 00800, Supplementary Requirements, of the limited extent of the information contained in such reports and drawings upon which the Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in such reports and drawings.
- 4.3 Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in this Article) which pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the site or otherwise that may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.
- 4.4 Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 4.5 Contractor has given the Project Manager prompt written notice of all conflicts, errors, ambiguities or discrepancies that it has discovered in or among the Contract Documents and as-built and actual conditions and the written resolution thereof through Addenda issued by Project Manager is acceptable to Contractor.

Article V. Contract Documents

The Contract Documents which comprise the entire agreement between District and Contractor concerning the Work consist of the following:

- 5.1 Contract Documents consist of the following Sections, including all changes, addenda and modifications thereto, as listed in the Table of Contents:

Section 00020	Notice to Contractors
Section 00100	Instructions to Bidders
Section 00220	Geotechnical Data and Existing Conditions
Section 00300	Bid Form
Section 00411	Bidder's Bond
Section 00430	List of Subcontractors

Section 00481	Non-Collusion Affidavit
Section 00482	Bidder Certifications
Section 00483	Bidder's Qualifications and References
Section 00500	Execution of Contract
Section 00510	Agreement for Public Improvements
Section 00610	Construction Performance Bond
Section 00620	Construction Labor and Material Payment Bond
Section 00650	Indemnification and Insurance
Section 00700	General Conditions
Section 00800	Supplementary Requirements
Section 00850	Contract and Record Drawings
Specifications	Divisions 1 through 17
Project Plans/Drawings	

5.2 All above-named Sections are intended to cooperate so that any work called for in one, and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said Sections. The Sections comprising the complete contract will hereinafter be referred to as the "Contract Documents." Section 00220, Geotechnical Data and Existing Conditions and the information supplied through these Sections, are not Contract Documents. The Contract Documents may only be amended, modified or supplemented as provided in Section 00700, General Conditions and Section 00800, Supplementary Requirements.

Article VI. Miscellaneous

- 6.1 Terms used in this Agreement are defined in Section 00700, General Conditions, and Section 01090, Reference Standards of the Specifications, and will have the meaning indicated therein.
- 6.2 It is understood and agreed that in no instance is any party, signing this Agreement for or on behalf of District or acting as an employee or representative of District, liable on this Contract, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of District is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.
- 6.3 The Contract Sum includes all allowances and accepted alternates. Accepted alternates are:
- NONE-
- 6.4. In entering into a public works contract or a sub-contract to supply goods, services or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act, (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases

of goods, services or materials pursuant to the public works contract or the sub-contract. This assignment shall be made and become effective at the time District tenders final payment to the Contractor, without further acknowledgment by the parties.

- 6.5. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Manual and on file at District's offices, and shall be made available to any interested party on request. Pursuant to Section 1861 of the Labor Code, Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the contract.
- 6.6. This agreement shall be deemed to have been entered into in the City of Foster City, County of San Mateo, State of California, and governed in all respects by California law.

Article VII. Notices

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice required to be given to the District shall be addressed as follows:

Esterio Municipal Improvement District
610 Foster City Boulevard
Foster City, CA 94404

Notices required to be given to the Contractor shall be addressed as appears in the signature block below.

IN WITNESS WHEREOF the parties to these presents have hereunto set their hands and seals and have executed this contract in [duplicate] the day and year first above written.

CONTRACTOR

ESTERO MUNICIPAL IMPROVEMENT
DISTRICT

Signature

(by) President

Title

Date

Date

Attest:

District Secretary

Contractor's Contract Bid Proposal: \$4,139,905

Contractor's License: 245215

Days to Complete: 300 Calendar Days

****END OF SECTION****