ORDINANCE NO. 137

AN ORDINANCE OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT AMENDING THE INSURANCE AND INDEMNITY PROVISIONS OF CHAPTER 8.40.090 OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT CODE AND AMENDING TITLE 9 OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT CODE TO PROVIDE THAT USE AND REGULATION OF PUBLIC PROPERTY SHALL BE GOVERNED BY THE FOSTER CITY MUNICIPAL CODE

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

WHEREAS, the Estero Municipal Improvement District Code (EMID Code) includes provisions regarding insurance and indemnity requirements for third parties using public property and performing work involving the public sewer system;

WHEREAS, District staff has reviewed insurance and indemnity requirements included in the EMID Code and Foster City Municipal Code with representatives from PLAN JPA, the insurance pool to which the District and City are members;

WHEREAS, the indemnity and insurance coverage requirements contained in the EMID Code and Foster City Municipal Code were, in many instances, found to be insufficient and requiring update;

WHEREAS, the Board of Directors wishes to ensure that indemnity and insurance requirements are regularly reviewed and updated in the future;

WHEREAS, Foster City staff proposed that the City Council create and regularly review and update by resolution a Master Insurance and Indemnity Requirements Schedule, which shall govern the indemnity and insurance coverage amounts required by the Foster City Municipal Code;

WHEREAS, to avoid redundancy or inconsistencies with the Foster City Municipal Code, the insurance and indemnity requirements contained within the EMID Code should reference and be included in the City’s Master Insurance and Indemnity Requirements Schedule;

WHEREAS, Title 9, Public Property, of the EMID Code mirrors Title 12, Public Property, of the Foster City Municipal Code, with the exception of its inclusion of Chapter 9.40, Watercourses; and

WHEREAS, the Board of Directors wishes to eliminate redundant provisions in the EMID Code and Foster City Municipal Code to avoid potential conflicts between the codes.

NOW, THEREFORE, be it ordained by the Board of Directors of the Estero Municipal Improvement District, as follows:
SECTION 1. Section 8.40.090 of Chapter 8.40 of Title 8 of the Estero Municipal Improvement District Code is amended as follows:

8.40.090 District’s liability.
As more fully described in the Master Insurance and Indemnity Requirements Schedule maintained by the City of Foster City, the district and its officers, agents and employees shall not be responsible for any injury or death to any person or damage to any property arising during or growing out of the performance of any work by any applicant. The applicant shall be solely responsible for and shall save the district and its officers, agents and employees harmless from any and all costs, expenses, fees and interest incurred in connection with this provision. The applicant shall be solely liable for any defects in the performance of his work or any failure which may develop therein. The applicant shall provide public liability insurance in types and amounts deemed adequate by the district, consistent with the requirements set forth in the Master Insurance and Indemnity Requirements Schedule maintained by the City of Foster City, which insurance shall name the district, its officers, agents and employees as additional insureds.

SECTION 2. Chapter 9.04 of Title 9 of the Estero Municipal Improvement District Code is entirely rescinded and replaced as follows:

9.04 General Provisions

9.04.010. Use of Public Property.
Except as provided under this Title 9, the use of public property shall be governed by the Foster City Municipal Code.


SECTION 4. Severability. If any section, subsection, sentence, clause of phrase of the Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Board of Directors hereby declares that it would 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 unconstitutional.

SECTION 5. Posting. Within fifteen (15) days after the adoption of this Ordinance, the District Clerk shall have it posted in three (3) public places for no less than one week.

SECTION 6. Taking Effect. This Ordinance shall take effect and be in force upon its one week posting following its adoption by the Board.
This Ordinance was introduced, read, passed and adopted on the 17th day of August, 2020, by the following vote.

AYES: Directors Awasthi, Froomin, Gehani, and Hindi

NOES: None

ABSENT: President Mahanpour

ABSTAIN: None

CATHERINE MAHANPOUR, PRESIDENT
BY: SANJAY GEHANI, VICE PRESIDENT

ATTEST:

PRISCILLA SCHAUS, DISTRICT SECRETARY
BY: YELENA CAPPELLO, DEPUTY CITY CLERK
CERTIFICATE OF POSTING

I, Yelena Cappello, hereby certify as follows:
That I am, and at all time herein mentioned, was the duly acting and qualified Deputy City Clerk of the City of Foster City, Foster City, San Mateo County, California.

I further certify to the proper posting of:


in the following three public places of the City of Foster City, Foster City, San Mateo County, California:

1. Recreation Center Lobby
   650 Shell Boulevard
2. Council Chambers (not a mandatory posting site)
   620 Foster City Boulevard
3. Foster City Public Library
   1000 E. Hillsdale Boulevard

Executed at the City of Foster City, Foster City, San Mateo County, California this 18th day of August, 2020.

Yelena Cappello
Deputy City Clerk