

TO: JAMES L. APP, CITY MANAGER  
FROM: MEG WILLIAMSON, INTERIM PUBLIC WORKS DIRECTOR  
SUBJECT: ACCEPTANCE OF DPW 98 – 17, THE PUBLIC SAFETY CENTER, AND SETTLEMENT AGREEMENT WITH S.C. ANDERSON  
DATE: NOVEMBER 2, 2004

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**Needs** For the City Council to review and accept for maintenance Measure D project number DPW 98-17, the Public Safety Center and the Settlement Agreement with S.C. Anderson.

- Facts:**
1. The contractor's warranty period for the Public Safety Center has expired.
  2. The City has been occupying the facility since February of 2003. However, it was not in the best interest of the City to declare the project complete and accept it for maintenance until the warranty period was concluded.
  3. The Public Safety Center Project was completed 302 days past the contract completion date. The City incurred cost as a result of this delay, including but not limited to project management fees. Anderson disputed its responsibility for the delays.
  4. On September 3, 2004, a settlement agreement and mutual release was signed by S.C. Anderson and the City of Paso Robles. The settlement agreement provides a total amount reimbursed to the City for delays in the amount of \$180,978.76:
    - a. The City will retain \$150,000.00 of the contract price as compensation for costs incurred as a result of the extended construction period.
    - b. The City will retain an additional \$25,948.76 of contract funds to offset legal fees associated with the construction.
    - c. The contract price will be reduced \$5,030.00 as a credit for work deleted from the contract.

**Analysis & Conclusion:**

In order to close out the respective project budget associated with this project, staff is requesting Council adopt the attached resolution deeming DPW 98-17 as complete and accepted by the City for maintenance.

**Policy Reference:**

Public Contract Code

**Fiscal Impact:**

None.

- i. The City's Construction Management costs, office rent and general overhead associated with the delay was \$117,000.00. The \$150,000.00 settlement fully offsets the additional cost incurred by the City for the delay, including staff time.

- ii. The \$25,948.76 for legal fees is equal to the fees billed by the City Attorney to address sub-contractor and performance issues in connection with the Public Safety Center Project.
- iii. \$5,030.00 was deducted from the construction contract for the Public Safety Center for a portion of paving on Pine Street when it was discovered that the City would be grinding and paving Pine as part of its annual street maintenance at the same time construction was underway.
- iv. Any funds remaining in the respective project budget may be allocated to other Measure D Projects or to Measure D Reserves.

**Options:**

- a. Adopt a resolution accepting DPW 98-17 for maintenance by the City and approving the settlement agreement between the City and S.C. Anderson Company.
- b. Amend, modify, or reject the above item.

RESOLUTION NO. 04-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
ACCEPTING DPW PROJECT 98-17 (PUBLIC SAFETY CENTER)

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WHEREAS, the City Council authorized the construction of DPW Project 98-17, better known as the Public Safety Center; and

WHEREAS, it is the policy of the Council to accept City facilities for on-going maintenance; and

WHEREAS, the warranty period associated with the above noted project is concluded; and

WHEREAS, the City has accepted a settlement agreement from S.C. Anderson for the project.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the City Council of the City of Paso Robles does hereby accept DPW project 98-17 for maintenance by the City, accepts the settlement agreement between the City and S.C. Anderson Company, and authorizes the close out of the respective project budget.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 2<sup>nd</sup> day of November 2004 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Frank R. Mecham, Mayor

ATTEST:

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Sharilyn M. Ryan, Deputy City Clerk