



## **Item No. 6 Town of Atherton**

### **CITY COUNCIL STAFF REPORT – CONSENT AGENDA**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: GEORGE RODERICKS, CITY MANAGER**

**DATE: JANUARY 18, 2023**

**SUBJECT: APPROVE THE SETTLEMENT AGREEMENT WITH S.J. AMOROSO CONSTRUCTION, INC. FOR TOWN CENTER PROJECT CLOSE-OUT**

### **RECOMMENDATION**

Approve the attached Settlement Agreement with S.J. Amoroso Construction, Inc. (SJA) for the Town Center Project Close-Out.

### **BACKGROUND**

Staff has been working with SJA to finalize several remaining disputed change orders as well as a Time and Impact Claim related to various late-pandemic supply chain and other manufacturing delays that were not anticipated with the original COVID-19 extension. Together, the disputed items totaled just over \$2 million, according to SJA's calculations.

The original contract completion date was extended to late 2021 for various reasons, but due to compensable and non-compensable delays, the Town did not take full occupancy of the Town Center until June 2022. That occupancy and completion is still within the Construction Time Limit window for a project of this size. Despite that we have since occupied the Town Center, there was remedial work remaining due to Town-added changes and even today, the doors for the Historic Council Chambers remain on back order with the supplier, and they are not anticipated to be delivered and installed until early Spring. SJA is entitled to reasonable time and overhead for the additional work and delays and associated compensation for some portions of the disputed change orders.

### **ANALYSIS**

Now that the project is substantially complete, staff has been working with SJA on a global settlement releasing all claims, settling any disputed change orders, and addressing any Time and Impact Claims.

Staff worked with SJA to settle the various outstanding changes orders to include \$549k in final

## SJA SETTLEMENT AGREEMENT

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change orders as part of the library and \$376k for the Town (total \$925k). These final change orders related to ceiling fans, mechanical piping and duct work, heat pump relocation, and Cat6A wiring. The approved change orders were within the City Manager's approval authority and within the Town's contingency for the overall project. As part of the negotiation, SJA ultimately reduced the overall cost of the change orders and withdrew the Time and Impact Claim entirely in exchange for the Town extending the project completion date for the Historic Council Doors and not seeking liquidated damages. The Council will need to approve the negotiated agreement and, when the Council doors are ultimately delivered and installed, extend the project timeline as part of the final Notice of Completion.

The negotiated agreement is a successful conclusion of the project.

### **FISCAL IMPACT**

Approval of the final \$925,000 of Change Orders, approved by the City Manager as part of the project Close Out. The approved change orders were within the City Manager's approval authority and within the Town's contingency for the overall project.

### **GOAL ALIGNMENT**

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area A – Maintain Fiscal Responsibility
- Goal Area F – Be Forward-Thinking, Well-Managed, and Well-Planned

### **POLICY FOCUS**

The Council policy focus should be on the successful completion of the Town Center Project.

### **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders –to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

### **COMMISSION/COMMITTEE FEEDBACK/REFERRAL**

This item has not been before a Town Committee or Commission

### **ATTACHMENTS**

1. Settlement Agreement with SJA